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# The Solicitors' Journal

[Established 1857.] [Registered as a Newspaper.]

VOL. LXXVI. No. 51 [Pages 877 to 892]. **Saturday, December 17, 1932.** Published Weekly Price One Shilling

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# The Solicitors' Journal

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## Current Topics.

### Business in the Courts.

THE fact that, after consultation with the Lord Chief Justice, the Lord Chancellor has appointed a strong committee, under the chairmanship of the Master of the Rolls, "to consider the state of business in the Supreme Court," is a recognition by the highest authority that all is not well with the working of the legal machine. Again and again it has been alleged that it operates too slowly and at an excessive expenditure of money to be really efficient. Doubtless much may be said in support of both limbs of this indictment, but it has to be borne in mind that hurried justice is not necessarily of the best quality, and, further, that complicated questions of fact require time for their disentanglement; but after making due allowance for this, it remains true that there are defects in the system that are capable of improvement, and these will doubtless be brought into fuller light by the investigations of the newly appointed committee, the terms of reference to which are happily comprehensive enough to permit of the most extensive inquiry. The committee is asked to inquire, first, whether greater expedition or greater economy in the dispatch of business is practicable and could be effected by any rearrangement of the courts; secondly, whether any alterations in the days of sittings or in the vacations might be made with advantage; thirdly, whether there should be any elimination or restriction of the right of appeal; fourthly, whether the arrangements for the dispatch of business at the Central Criminal Court or on Circuit might be improved; and, lastly, whether the grand jury system should be altered in any way. This is indeed a comprehensive programme of work for the committee, to certain items of which we have referred by anticipation in previous issues, as, for example, on the subject of the multiplicity of appeals. With regard to the circuit system, which, in the opinion of many competent observers, involves an unnecessary waste of judicial effort, readers may recall that Mr. Justice MACKINNON recently put forward the very sensible suggestion that there should be a much greater grouping of circuit towns in certain districts. Again, an enlargement of the New Procedure Rules may offer further scope for speeding up the ordinary business of the courts, but no doubt this will be kept in mind, particularly as Mr. Justice SWIFT, who has been one of the judges to whom the working of this procedure has been entrusted, is a member of the committee. We have referred to the committee as a "strong committee," and so indeed it is, but we should have welcomed a larger representation of the solicitor branch of the profession. However, the two solicitor members, Mr. DOWSON and Mr. MARTINEAU, will worthily represent this branch in the discussion of those topics which are specially within the scope of a solicitor's work.

### Mr. Llewellyn-Jones' Motion.

IN connection with the setting up of the Lord Chancellor's Committee mention should be made of a notice of motion, standing in the name of Mr. LLEWELLYN-JONES, M.P. for Flintshire, which will come before the House of Commons on Wednesday, 21st December. Its purpose is "to call attention to the question of Law Reform and to move that in the opinion of this House it is desirable that steps be taken to inquire into the defects in the system of law and legal procedure in England and Wales and into the measures for removing these defects." It is clear that when this was placed among the motions to be balloted for at the beginning of the present session the proposal which has materialised in the Lord Chancellor's Committee was not envisaged and that the setting up of the said committee must rob the consideration of the motion of much of the significance which it would otherwise have had.

### An Act Tending to Cause Public Mischief.

WHILE commending the result of *R.* v. *Manley* (*The Times*, 13th December), regret may be expressed at the method by which it was brought about. The prisoner had in fact told the police a pack of lies about an assault on her by an unknown man, who, she alleged, had snatched her handbag. She also gave some sort of description of her imaginary assailant. Two results naturally followed, namely, that the police wasted their time in hunting for the man, when there was plenty of real crime to engage their undivided attention, and persons corresponding to her description were put in jeopardy of unjustified arrest, though it does not appear that anyone was actually taken in charge. Now s. 2 of the Prevention of Crimes Amendment Act, 1885, provides for the punishment of those who wilfully obstruct the police (and was liberally construed in *Betts* v. *Stevens* [1910] 1 K.B. 1, to include anyone who frustrated the device of the "police trap,") but could hardly be extended to hoaxing the police, and no other statutory provision was applicable. Accordingly she was charged with "causing police officers to devote their time and services to the investigation of false allegations, thereby temporarily depriving the public of their services and rendering persons liable to suspicion and arrest and by so doing beget public mischief." In support, *R.* v. *Brailsford* [1905] 2 K.B. 730, and *R.* v. *Porter* [1910] 1 K.B. 369, were cited. These cases had nothing to do with the police, being respectively concerned with procuring a false passport and indemnifying bail, but in each the charge of doing an act to the public mischief was accepted as a common law misdemeanour. The offence charged in *R.* v. *Brailsford* is now forbidden by s. 36 of the Criminal Justice Act, 1925. SELDEN observed that equity was "a roguish thing in accordance with the length of a judge's foot." On a charge such as the above, "public mischief" depends on the personal opinion of a judge or magistrate, and the comment may be made that it is far

from advisable to increase this class of offence. A number of ancient cases were resurrected to drive *R.* v. *Brailsford* home, decided long before Parliament had dealt with the criminal law as adequately as at present, and it is respectfully submitted that new offences should be created by Parliament and not by those who administer the law. Giving a false alarm of fire, for example, certainly tends to public mischief as much as hoaxing the police, for it may divert firemen from a serious conflagration. Instead of by the expedient of "public mischief," however, it was dealt with by the False Alarms of Fire Act, 1895. The above case is worth the attention of Parliament, which should protect the police against such nuisances as described, and, if possible, abolish a charge of so vague a nature as that in the above case.

### Perjury in the Courts.

THE recent utterances of MCCARDIE, J., which are referred to in a letter under the above title in this week's correspondence column, recall certain remarks made by the same learned judge in the course of his delivery of the 11th Maudsley Lecture entitled "Truth" before the Royal Medico-Psychological Society which was reported in our issue of 3rd January, 1931. There his lordship said that "in the majority of contested cases, whether criminal or civil, perjury is committed by one or more witnesses" and, conceding that he had "drawn a dark picture," almost doubted "if the colours [were] black enough." Our correspondent's question is not one which admits of a ready answer, but it is consoling to note that shortly afterwards EVE, J., treated the matter in a way which made it clear that he did not assent to the view above expressed. Possibly the absence of criminal cases from the last-named judge's list and the nature of actions tried in the Chancery Division may account to some extent for the different conclusions which these learned judges draw from their experience. An exceedingly elusive factor in this connection is the part played by involuntary inaccuracy of statement. The vast majority of people never enter a witness-box at all. Of those who do, it is for many a first and last experience and something of an ordeal calculated to upset the mental equipoise requisite for accurate recollection. Moreover, a truthful man, accustomed to have his word taken unchallenged, may well find himself disconcerted by the atmosphere of doubt and suspicion inseparable from a court of law, and, in accordance with a well-known psychological phenomenon, actually assume an appearance of guilt. Sometimes it is merely a question of sheer bad memory. EVE, J., is recorded to have said of such a witness "he seems to be afflicted with an unfortunate fluidity of recollection."

### Live Wires in Gardens.

IN the case of *Giles* v. *Garnett* (*The Times*, 22nd November), at Bournemouth, Judge HYSLOP MAXWELL, as no doubt he was bound to do, followed an old authority, *Jordin* v. *Crump* (1841), 11 L.J. Ex. 74, but the result can hardly be regarded as a satisfactory one in the twentieth century. The plaintiff was the owner of a dog which strayed into the defendant's garden. The latter had been troubled by wandering cats, and her son, who was an electrician, had placed live wires in the garden to get rid of them. The dog, coming into contact with one of the wires, was killed, and the plaintiff sued for its value. The defence was, of course, that the dog was a trespasser, and that the defendant was exercising a lawful right in setting up the wires. The last issue depended on the well-known statutory veto on the setting up of spring-guns, man-traps, and other engines calculated to destroy human life or inflict grievous bodily harm, with the intent that the same or whereby the same may inflict, etc. This veto is now contained in s. 31 of the Offences Against the Person Act, 1861. In *Ilott* v. *Walker* (1820), 3 B. & Ald. 304, it was held that a trespasser who, disregarding notice-boards, invaded a wood which its owner had set with spring-guns, had, under the common law, no redress for injury done to him when he set one off. In 1827, by 7 & 8 Geo. 4, c. 18, s. 1, man-traps and spring-guns were prohibited, in practically the same terms as in s. 31 of the 1861 Act, *supra*. In *Jordin* v. *Crump* a dog had been killed by a dog-spear, which was admittedly calculated to inflict grievous bodily harm on human beings, but the Court of Exchequer held that, since the spears were intended to trap dogs and not men, the setting of them was not made an unlawful act by the statute. The observation may be made that the decision entirely ignored the force of the words in the statute "whereby the same may inflict," etc., as distinguished from "with the intent that the same may inflict." From the report of the present case, Judge MAXWELL'S attention does not appear to have been directed to a short note on *R.* v. *Smith & York* (1902), 37 L.Jo. 89, a prosecution for setting spring-guns. BRUCE, J., left the question to the jury: "Was the machine, when set up or loaded with shot, an engine the natural effect of which would be to inflict grievous bodily harm upon a person coming in contact therewith?" And there was a conviction on an affirmative answer. Possibly, however, BRUCE, J., in turn, had not had *Jordin* v. *Crump* cited to him. So far as this old case is a ruling that a landowner who states that he sets man-traps for dogs or cats places himself outside the statute, it is an obvious violation of the spirit of it.

### Contributory Negligence of Drivers and a Passenger's Rights.

A YOUNG lady, riding pillion on her fiancé's motor-cycle, was injured in a collision with another vehicle. The negligence of the driver of the latter was established, but he claimed that the driver of the motor-cycle was also negligent. This issue was apparently not tried, since the county court judge held, no doubt rightly, that a plea of contributory negligence would not prevail against a plaintiff who was not guilty of it. The matter is nevertheless of legal and public interest, for the exact rights of a passenger, or, possibly, any other third party, where contributory negligence is alleged and proved, do not appear to have been worked out in any reported case as to land collisions, though no doubt the reasoning in *The Koursk* [1924] P. 140, throws light on such a situation. This was a case in which a third party recovered damages as the result of injury caused by a sea collision in which the masters of both the colliding vessels were held to blame. As the result of the collision, one of the vessels ran into and sank a third. It was then held that the masters of the vessels to blame were not joint tort-feasors, but each had committed a separate tort, and was responsible for the combined result of both. BANKES, L.J., observed: "I will indicate that in my opinion the ordinary case of a claim against both owners of two separate vehicles which are alleged to have contributed to the damage in a running-down case is more correctly dealt with as a claim against them severally, or in the alternative, than as a claim against them jointly." SARGANT, L.J., foresaw that, as a result of the decision, it might be possible for the injured party, by separate actions against the drivers or owners of each vehicle, to recover more than the total damage done, see pp. 162-3. Presumably, however, if damages had been recovered in one action, the fact could in some way or other be brought to the notice of the jury in the subsequent one, and they would be entitled to take it into consideration. A guest riding as a passenger in a car can, of course, claim damages for injury caused by negligence of the driver-owner, see *Karavias* v. *Callinocos* [1917] W.N. 323, applying *Harris* v. *Perry* [1903] 2 K.B. 219, and also, where another guest is the driver, *Pratt* v. *Patrick* [1924] 1 K.B. 488. That a passenger is not, so to speak, infected with his driver's negligence so as to be precluded from suing another negligent driver is the ruling in *The Bermina* (1888), 13 A.C. 1, over-ruling *Thorogood* v. *Bryan* (1849), 8 C.B. 115, a case of a road collision. In the above case it may no doubt be assumed that the plaintiff and her driver fulfilled all the requirements of s. 16 of the Road Traffic Act, 1930, as to pillion riding.

# Criminal Law and Practice.

"THE DEFENDANT NOT APPEARING. . . ."

THE way of the transgressor is proverbially hard. In Scotland, judging by a number of letters which have appeared recently in *The Times*, it is considerably harder than it is here, especially if he be a transgressor of the laws affecting motors and motoring.

One writer, while motoring in Argyllshire, was involved in a slight collision between his own and another car. So lightly did he regard the matter, that, quite sure in his own mind that he was in no way to blame, he never gave a thought to his "duty" of reporting the matter to the police. Shortly afterwards, he returned to his home in the South-West of England, and there, some seven weeks later, a summons was served upon him charging him with failing to report his "accident." The court in which the summons was returnable sat at Oban, and the unfortunate delinquent found himself with two clear days in which to travel to that town, one day being a Sunday, the other a bank holiday.

He wrote at once to the clerk of the court explaining his position, describing what had occurred at the time of the "accident," and asking that his letter might be put before the magistrates for their sympathetic consideration. He was told in reply that his letter had been handed to a solicitor and that he must either engage legal assistance or appear at the court in person. The solicitor then wired, suggesting that £5 should be telegraphed to cover the costs and the "probable fine." Ultimately, after receiving advice from local police that he had better follow the suggestions proffered by his Scots correspondents lest a warrant be issued for his arrest, he engaged the legal assistance so kindly provided and the matter ended by his paying a fine of £1 and, as he says, "more than one and a half times that amount in fees."

Another motorist had an even more annoying, if not alarming, experience as one of the results of a Scottish holiday. Arriving one day in Stirling, he asked a policeman where he might park his car, and was directed to a wide street where any thought of obstructing the traffic could hardly arise. There he duly left his car. On his return he found a policeman waiting to take his name and address, not for obstruction, but for leaving it for a period longer than was "necessary for loading and unloading goods or for taking up and setting down passengers, contrary to the Burgh Police (Scotland) Act, 1892," the maximum penalty for the offence being 40s.

In due course he was served with the summons requiring him to answer to the charge at Stirling Police Court. He was now, however, in London, and he wrote to the court explaining the facts, regretting that he could not attend the hearing and leaving himself in the hands of the court. He had no acknowledgment from the clerk of the court, but, instead, received a letter from the Burgh Prosecutor of Stirling to the effect that if he would plead guilty and would remit the "sum of 10s. as a pledge to obviate personal appearance," he need not attend the court. Perhaps he would have been wise to have seized this chance of escaping further possible trouble, but he preferred to have an answer to his letter to the clerk. When he did hear from that official he was informed that in view of his absence at the hearing of his case, the magistrate had granted a warrant for his arrest. On the afternoon of the day on which he received this interesting piece of news, he learnt that the London police were seeking him with a view to executing the warrant, and only an immediate application to, and speedy intervention by, the officials at the Scottish Office saved him from a most unpleasant experience.

These examples of what may happen to the unwary in Scotland should not find any parallels in this country. The law and practice here with regard to hearing cases in the absence of the defendant appear to be well settled. In minor offences, dealt with under the Summary Jurisdiction Acts, the practice is never to issue a warrant—if the defendant does not appear—where a summons will be equally effectual, and unless the charge may be of a serious nature: see *O'Brien* v. *Brabner*, 49 J.P. 227. Under both ss. 2 and 13 of the Summary Jurisdiction Act, 1848, the justices have power, on being satisfied that the summons has been served, to proceed *ex parte* to the hearing of the case and to adjudicate upon it as if the party had personally appeared before them. This being so, it has been held magistrates cannot issue a warrant to secure the personal attendance of a defendant where he is represented by counsel or solicitor: *Bessell* v. *Wilson*, 17 J.P. 567; see also *R.* v. *Thompson* [1924] 1 K.B. 602. It is, however, incumbent upon the justices to see that the circumstances are such as to give them good reason to believe that the summons has either been personally served, or, has come to the defendant's knowledge, before he is tried and sentenced in his absence for an alleged criminal offence. The summons should be served on the defendant a reasonable time before the hearing, and the justices are the proper judges whether it has so been served: *Re Williams*, 21 L.J. 46.

In cases, too, where a child or a young person is concerned, if the court is satisfied that his attendance before it is not essential to the just hearing of the case, they may proceed and determine the case in the absence of the child or young person: Children Act, 1908, s. 31.

Indictable cases cannot be tried in the absence of the accused, except when the accused is a corporation: Criminal Jurisdiction Act, 1925, s. 33. In two cases, however, prisoners were so tried because they caused such a disturbance in court that the evidence could not be taken: see *R.* v. *Berry* (1897), 104 L.T. Jo. 110; *R.* v. *Browne* (1906), J.P. 472. The rule has not always been followed and it is said that a charge of misdemeanour may be tried in the absence of the accused if he has previously pleaded: *R.* v. *Browne*, *supra*. In the trial of the Tichborne claimant for perjury, the accused was taken ill and was allowed to absent himself from the court till he recovered, the trial proceeding without him: *R.* v. *Orton*, "Archbold's Criminal, etc., Practice," 28th ed., p. 180. In cases of felony, at any rate, it seems clear that the sentence must be given in the presence of the prisoner: *R.* v. *Hales* [1924] 1 K.B. 602.

# Priority of Mortgages and Charges affecting Land in Yorkshire.

THE mortgages and charges which have to be considered may be roughly divided into the following classes:—

(i) Legal mortgages protected by the title deeds;

(ii) Legal mortgages not protected by the deeds;

(iii) Equitable mortgages protected by the deposit of the deeds, but unaccompanied by any memorandum of charge;

(iv) The like, accompanied by a memorandum of charge, distinguishing the case where the memorandum contains an agreement to execute a legal mortgage when called on; and

(v) General equitable charges (not including equitable interests arising under a trust for sale or a settlement) not protected by the deeds.

In trying to come to a correct conclusion as to what is the present law as regards the priority of successive mortgages and charges affecting land in Yorkshire, we have to bear in mind that the Yorkshire Registries Act, 1884, as amended by the Yorkshire Registries Amendment Act, 1884 (afterwards referred to as the "Y.R.A.," for shortness), has not been formally repealed. The consequence is that the provisions thereof as to priorities still remain operative so far as they have not been altered or modified by the provisions of the Law of Property Act, 1925, and the Land Charges Act, 1925 (afterwards referred to as "L.P.A." and "L.C.A." respectively).

The first thing to ascertain, therefore, is in what respects the new Acts have altered or modified these provisions of the Y.R.A.

*Tacking.*—One instance is the case of "tacking." Tacking was abolished altogether by s. 16 of the Y.R.A., but it has been partially revived by s. 94 of the L.P.A. For, although s. 94 abolishes tacking generally, it contains a saving sub-section as regards the making of further advances by a prior mortgagee in the following cases, that is to say—a prior mortgagee is to have the right to make further advances *to rank in priority to subsequent mortgages* (whether legal or equitable), if he had no notice thereof at the time of making the further advance; or, whether or not he had such notice, where the mortgage deed imposes an obligation on him to make such further advances. It is further provided that the mortgagee is not to be deemed to have notice of a mortgage merely by reason that it is registered in a local deeds registry, or when the last search (if any) was made by or on behalf of the mortgagee, whichever last happened. Consequently, s. 94 of the L.P.A. must now be taken to represent the existing law, and s. 16 of the Y.R.A. to be overruled.

*Legal mortgagees.*—To get at the present rule as to the priority of legal mortgages we have to start with s. 14 of the Y.R.A. That section provides, in effect, that subject to the provisions of the Act, all *assurances* [this word by s. 3 of the Y.R.A. included a memorandum of charge] *entitled to be registered under the Act* shall *have priority according to the date of registration* thereof, and not according to the date of such assurances, or of the execution thereof; *and that all priorities given by the Act* shall have full effect in all courts, *except in cases of actual fraud*, and that all persons claiming thereunder any legal or equitable interests shall be entitled to *corresponding priorities*, and that *no such person shall lose any such priority merely in consequence of his having been affected with actual or constructive notice, except in cases of actual fraud;* but that nothing in the section contained shall operate to confer upon any person claiming without valuable consideration under any person any further *priority* or protection than would belong to the person under whom he claims; and that any disposition of land or charge on land, which, if unregistered, would be fraudulent and void, shall, notwithstanding registration, be fraudulent and void in like manner.

The meaning of the words "except in cases of actual fraud," was carefully considered in *Battison* v. *Hobson* [1926] 2 Ch. 403. At p. 412, Stirling, J., said: "Now I am far from saying that questions may not arise on the construction of that section, but it seems to me that the Legislature has twice over provided that *the priorities given by the Act* are not to be altered except in cases of 'actual fraud,' and I am certainly not disposed in any way to fritter away the language of the Act. 'Actual fraud' I understand to mean 'fraud' in the ordinary popular acceptation of the term, that is, fraud carrying with it grave moral blame, and not what has sometimes been called 'legal fraud' or 'constructive fraud' or 'fraud in the eye of a court of law or a court of equity.'" In that case the owner of land gave a mortgage by deposit of deeds to a bank, but the bank had not registered a memorandum at the deeds registry under the provisions of s. 7 of the Y.R.A. A gentleman, afterwards, with the knowledge that the bank's mortgage had not been registered, lent the owner some money on mortgage and duly registered his mortgaged. The latter claimed priority for his mortgage on the ground that his mortgage was registered and the bank's mortgage was not. As a matter of fact the gentleman claiming had been acting as solicitor in connection with some of the parties, and the judge thought he ought not, under such circumstances, to have claimed priority, and that the case was just one of the cases which came within the meaning of "fraud" as used in s. 14 of the Act.

In *Jones* v. *Barker* [1909] 1 Ch. 321, R.C. mortgaged freehold property in Yorkshire to a bank, who sold, and there was a surplus. R.C. had executed various equitable charges and then a deed of assignment for the benefit of his creditors. The latter was registered before the equitable charges, and it was held, *upon the construction of the deed*, that it only conveyed such interest in the property as R.C. had at its date, and which in bankruptcy would have vested in his trustees, namely, the balance after the equitable mortgagees had been satisfied. To get a complete statement as to what documents were, before 1926, "*entitled to be registered* by memorial" or memorandum, we have also to refer to s. 7 of the Y.R.A. This section provides, in effect, that where any charge on any lands within any of the three Ridings is claimed by reason of any deposit of title deeds, a memorandum of such charge, signed by the person against whom such charge is claimed, may be registered by any person claiming to be interested therein. The section goes on to state what the memorandum shall contain, and then proceeds to say that no such charge *shall have any effect or priority* as against any assurance for valuable consideration which may be registered under that Act unless and until a memorandum thereof has been registered in accordance with the provisions of the section.

It was decided in *Roger* v. *Harrison* [1893] 1 Q.B. 161, that no priority is given by the section to persons claiming under a document not entitled to be registered thereunder, although such document may have been actually put on the register.

We see, therefore, that before 1926, many equitable mortgages and charges as well as legal mortgages were entitled to be registered by memorial or memorandum, and that such registration fixed their priority.

But, since 1925, the definition of what documents are entitled *to be registered by memorial* [which includes "memorandum"] given in the above two sections has been limited to those which operate to transfer or create a legal estate. So that, since that date, documents creating equitable interests are no longer entitled to be registered by memorial or memorandum in a local deeds registry, and if so registered will not obtain priority thereby. [Some equitable interests can, as we know, be registered as *land charges* in the Land Charges Department of a local registry and thereby obtain priority, but this is a different matter, and will be dealt with later.] The sub-section which effects this limitation is sub-s. (1) of s. 11 of the L.P.A., given below:—

> Section 11 (1). "It shall not be necessary to register a memorial of any instrument made after the commencement of this Act in any local deeds registry unless the instrument operates to transfer or create a legal estate, or to create a charge thereon by way of legal mortgage; nor shall the registration of a memorial of any instrument not required to be registered affect any priority."

This sub-section applies to all *legal* mortgages executed since 1925, *whether or not the mortgagee gets the deeds*; and it is wished to emphasise the following point: Where the property is not within the jurisdiction of a local registry or registered land, and a *legal mortgagee does not get the deeds*, the mortgage deed has to be registered at the Land Registry as a land charge and takes priority according to the date of registration (L.C.A., s. 10 (1), Class C (i), and L.P.A., s. 97), but when the land is in Yorkshire the mortgage has *not* to be registered in the Land Charges Department of the Yorkshire Registry, but by memorial in the ordinary Deeds Registry. This registration by memorial exempts the deed from registration as a land charge (L.C.A., s. 21). That is, of course, where the whole of the land mortgaged is in Yorkshire. If part of the land mortgaged is in Yorkshire and part elsewhere, the mortgage would have to be registered as a land charge at the Land Registry as well as by memorial at the Yorkshire Deeds Registry.

It should also be noted that the provisions of ss. 197, 198 and 199 of the L.P.A., as to making registration by memorial or as a land charge, notice to all persons, do not affect the priority of legal mortgages because it is expressly provided by s. 14 of the Y.R.A., *ante*, that no person shall lose priority merely in consequence of his having been affected by actual or constructive notice, except in cases of actual fraud.

We have now come to the point where we are in a position to say that the rule of priority, since 1925, of legal mortgages of land in Yorkshire, with or without the deeds, is determined by reading ss. 14 and 7 of the Y.R.A., with s. 11 (1) of the L.P.A.; and that such rule is that all such mortgages as are entitled to be registered by memorial under s. 11 (1), that is, all such legal mortgages as operate to transfer or create a legal estate, and are duly registered by memorial in the particular Yorkshire Deeds Register, have priority according to the date of registration, except in the case of actual fraud, as these words have been construed in *Battison* v. *Hobson*, and further, that the registration of a memorial of a mortgage not so required to be registered will not give any priority. The only exception to the rule being where a prior mortgage makes a further advance in the circumstances already fully referred to under the provisions of s. 94 of the L P.A.

It also follows from the above that both s. 14 and s. 7 of the Y.R.A. have, at the present time, lost their power of fixing the priority of equitable mortgages and charges, we have, therefore to look elsewhere as to this.

As regards legal mortgages without the deeds, created and registered before 1926, and which then were only equitable mortgages, they retain after 1925, without any further registration, such priority as they had obtained before 1926 (L.P.A., 1st Sched., Pt. II, para. 7 (*h*)). The provision contained in L.P.A., 1st Sched., Pt. VII, para. 6 (as to freeholds), and in Pt. VIII, para. 5 (as to leaseholds), that a mortgage affecting a legal estate made before 1926, not protected by the deeds, shall not obtain any benefit by being converted under the transitional provisions into a legal mortgage, unless registered after 1925 as a land charge, *does not apply* to mortgages or charges already registered in a local deeds registry.

Up to now we have been dealing with the priority of legal mortgages by individuals. But if the mortgagor is a limited company we have to bear in mind the provisions of s. 10 (5) of the L.C.A., namely, that in the case of a land charge for securing money created by a company, registration under the Companies Act (now the Companies Act, 1929, ss. 79–82) shall be sufficient in place of registration under the L.C.A., and shall have effect as if the land charge had been registered under the L.C.A. It has been contended that in the case of a legal mortgage by a company it is sufficient to register same in the companies register at Somerset House, and that it is not necessary also to register same by way of memorial at the Yorkshire Registry having jurisdiction. It is thought that would be safer to register same, both at Somerset House, and at the Yorkshire Registry by memorial, until (if ever) there is a decision to the contrary. L. E. E.

(*To be continued.*)

## A Railway Rates Decision.

In view of the objections associated with the conveyance of large quantities of merchandise by road, to say nothing of the comparatively depressed state of the railways and the inherent desirability of cheap transport, it can hardly be regarded as other than regrettable that the Railway Rates Tribunal in *Great Western Rly.* v. *Bristol Grain Importers' Defence Association* (reported in *The Times*, 25th November), were unable to accede to an application by a railway company to charge a flat rate of so much per ton for the carriage of a firm's goods between certain docks and 320 stations on the system. The commodities concerned were oil cake and feeding stuffs and the rate agreed upon enabled the firm to charge substantially less for their goods than their rivals. With the economic aspect of the matter, however, we are not concerned. Following is a short statement of the legal issues involved. The company had charged for the carriage of the aforesaid commodities in 2-ton lots a flat rate of 7s. 2d. a ton obtained by aggregating the amount paid in rates by the firm in question in a year and the amount which would have been paid had the firm's road traffic gone by rail, and dividing the total so as to give an average. This method of calculation would have given a figure of 7s. 7¾d. per ton—5¾d. less than the rate charged. The Tribunal found that such was *ultra vires* the company. Sir Walter Clode, K.C., who delivered the judgment of the Tribunal, pointed out that the principle underlying the decision was the fact that a statutory undertaking, such as a railway company, must be conducted on the terms on which its powers were granted. If the proposal were not within those powers, it must fail. The Railways Act, 1921, provided only two charges which a company was entitled to make for the conveyance of merchandise—a "standard charge" or an "exceptional rate." The proposal involved the charging of an "averaged" rate. The standard charge was based on so much per ton per mile plus terminals. Section 32 of the Act prohibits variation either upwards or downwards of the standard charges "unless by way of an exceptional rate . . . continued, granted or fixed" under Part III of the Act "or in respect of competitive traffic in accordance therewith." Section 37, sub-s. (1) provides for new exceptional rates to be reported to the Minister of Transport—"so, however, that a new exceptional rate so granted shall not, without the consent of the rates tribunal, be less than five per cent. or more than forty per cent. below the standard rate chargeable." Under this section the consent of the Tribunal was necessary in the case of 208 of the stations. In regard to the remainder, the proposed rate was either higher or within the permitted limits of reduction. "Exceptional charges" were, however, defined by s. 57 as "charges below the standard charges, including special charges continued subject to adjustment under the provisions of this Part of this Act, and the expressions 'exceptional rates' and 'exceptional fares' shall be construed accordingly." That definition seemed to the Tribunal "to ensure that the 'exceptional' must have a counterpart somewhere in the 'standard,'" so that, like the latter, it must be based on so much per ton per mile. Nor was the company's application assisted by the special charges "continued" under the Act. Section 34 abolished such charges except such as the Tribunal were bound to continue—fixed as they were by agreement or statutory provision for valuable consideration—or did, in fact, continue. "Thus," the Tribunal decided, "some old 'special charges' were carried over in to the new system, but no power of creating 'special charges' for the 'conveyance of merchandise' was contained in the Act of 1921. To have done so would have been to undermine the system of rate regulation and adjustment which it was the object of the Act to establish." The Tribunal concluded that they were unable to consent to the proposed charges because they were not new exceptional rates within the meaning of the statute, and, moreover, even if they had been, the Tribunal had no evidence that the company would be better off, and therefore nearer the standard revenue, if consent were given than if it were withheld.

### DIRECTION BY THE JUDGES OF THE CHANCERY DIVISION.

We hereby direct that as from the 1st January, 1933, applications in Chambers under the Adoption of Children Act, 1926, be dealt with by Chief Master J. H. P. Chitty, and that the other matters which under the direction of the Judges of the Chancery Division, dated 18th November, 1927, were to be dealt with by the Chief Master to the exclusion of the other Masters be dealt with in the Chambers attached to us respectively according to the letter distinguishing the same, subject to any special arrangements as to pending business which may be made by the Chief Master under our directions.

*Harry T. Eve.* *Fairfax Luxmoore.*
*A. C. Clauson.* *C. J. W. Farwell.*
*F. H. Maugham.* *Charles A. Bennett.*

12th December, 1932.

# Company Law and Practice.

## CLX.—OFFERS FOR SALE.—I.

RECENTLY we have been examining the provisions of the Act relative to prospectuses proper, but there is another side of this question of some importance; for in the old days it was not difficult to evade the statutory provisions as to prospectuses by disposing of the whole of the shares or debentures which it was desired to place with the public to some one person or company, who would then offer them for sale to the public, and thus be able to do so without any of the restrictions imposed by the statutes. But s. 38 of the Companies Act, 1929, prohibits this in cases where the allotment and the offer in fact form part of one transaction. Where a company allots or agrees to allot any of its shares or debentures with a view to all or any of them being offered for sale to the public, any document by which the offer for sale to the public is made is for all purposes to be deemed to be a prospectus issued by the company, with the same results, as to liability in respect of statements in and omissions from prospectuses, and otherwise, as if it had been a prospectus issued by the company. This is, however, without prejudice to the liability, if any, of the persons by whom the offer is made, in respect of mis-statements contained in the document or otherwise in respect thereof.

Thus, a person who subscribes on the faith of an offer for sale may, in addition to the statutory remedies, still have his remedy against the persons by whom the offer is made, which is expressly reserved by the section. This remedy would be in the shape of the common law action for deceit, or, as it is perhaps more frequently referred to, an action for fraudulent misrepresentation; on which the case of *Derry* v. *Peek*, 14 A.C. 337, is perhaps the best known authority. Thus, a person subscribing in this way has the advantage of an additional target, in the event of matters not turning out as he had hoped. But when are the two transactions of allotment by the company and of offer for sale to the public to be treated so much as one transaction that the offer for sale is to be treated as a prospectus? The section has provided for this as follows:—

> Section 38 (2).—"For the purposes of this Act, it shall, unless the contrary is proved, be evidence that an allotment of, or an agreement to allot, shares or debentures was made with a view to the shares or debentures being offered for sale to the public if it is shown—
>
> "(*a*) That an offer of the shares or debentures or of any of them for sale to the public was made within six months after the allotment or agreement to allot; or
>
> "(*b*) That at the date when the offer was made the whole consideration to be received by the company in respect of the shares or debentures had not been so received."

This sub-section puts a burden on the person making the offer, for if it is made within six months, as provided in (*a*), or if at its date the company has not received in full the consideration for the shares or debentures, it must, practically speaking, be treated as a prospectus. But it must be noticed that the section does not say "conclusive evidence," and thus there is a discretion left in the court, even in a case where one or other of the sets of circumstances, or both, are present, and where the contrary has not been proved, to say that these sets of circumstances are only evidence, and not conclusive evidence, and that such evidence is not sufficient. It is impossible to say that, in this case, the evidence is not conclusive, and can be rebutted, because such facts as might rebut the evidence must already have been put forward in an endeavour to prove the contrary, unless it could be said that, though the facts put forward were not sufficient to prevent, say, an allotment within six months of the offer, being held to be evidence of an allotment with a view to shares being offered to the public, yet they were sufficient to make that evidence unacceptable. This is a possible construction of the section, but it hardly seems to be what was intended; which no doubt was, that the transaction was to be treated as one, unless the offeror could prove the contrary, in the cases specified in the sub-section.

It may be taking a somewhat cynical view, but it is nevertheless true to say that the persons concerned are in a very advantageous position so far as proving the contrary is concerned, as anyone who has ever attempted proceedings against two persons, where a material part of his case is a transaction between those two persons, will realise. So far as (*a*) is concerned, there can be little criticism of its provisions; if anything of the kind was to be done, it is necessary to fix the time in a purely arbitrary fashion, and six months is reasonable, for the great majority of such offers would be made in much less than six months. As to (*b*), there is some ground for saying that this may operate rather harshly, for, though it is the practice at the present day to have the whole of the share capital of a company fully paid up, such is not always the case, and, if a company does not wish to call up the full amount on its shares, an offer for sale of its shares cannot be made without coming within the very stringent provisions as to prospectus, unless proof is forthcoming that the allotment was not made with a view to an offer for sale. "Yes," you say, "but such proof is easily made in a genuine case," and I agree, but is there any need to impose such a necessity? There are enough restrictions and regulations of one sort and another as it is, without requiring a company whose shares are not fully paid to consider the operation of s. 38.

As for the rest of the section, it provides that the persons making the offer, if it is such that it is to be deemed to be a prospectus issued by the company, must sign the copy to be delivered to the registrar of companies for registration, and is to be liable to a fine if it is not delivered for registration. Where a person making such an offer is a company or a firm (which sounds somewhat of an Irishism, but is actually perfectly correct in the circumstances) it is sufficient if it is signed on behalf of the company or firm by two directors of the company or not less than half of the partners, and any such director or partner may sign by his agent authorised in writing.

Finally, we get in s. 38 (3) additions to the matters normally required to be set out in a prospectus; it provides that s. 35 (which is the section referring to the Fourth Schedule, in which those multifarious matters to which I have earlier in this series referred are set out) as applied by s. 38 is to have effect as if it required a prospectus to state in addition to the matters required by that section to be stated in a prospectus:—

> (i) the net amount of the consideration received or to be received by the company in respect of the shares or debentures to which the offer relates; and
>
> (ii) the place and time at which the contract under which the said shares or debentures have been or are to be allotted may be inspected

So that the public is to know how much of the purchase price is to stick, if such an expression will be pardoned by my readers, and it is also to have an opportunity of examining the contract between the company and the offeror; but what is to happen if the contract is never reduced to writing? In practice it is reasonably certain that it would be, but there is no absolute necessity that it should. In s. 42 it has been recognised that a contract constituting the title of an allottee to an allotment of shares need not be in writing, for that section provides for particulars of such a contract in the prescribed form being delivered for registration, if it has not been reduced to writing. Maybe it is considered that the transaction would be of such a nature that the contract would, of sheer necessity, be reduced to writing—anyway, we are safe in waiting until it actually happens that one such contract is not reduced to writing before deciding what to do in such circumstances.

(*To be continued.*)

# A Conveyancer's Diary.

**Appropriation to Answer Annuities.**

In my "Diary" for the 3rd December I wrote with regard to appropriations to answer annuities, more particularly where a testator has directed that a sum shall be set aside and invested for the purpose. Last week I had to turn my attention to another subject, although I had not quite done with this question regarding annuities.

There are one or two points which are worth attention. In the first place, I can hardly deal with the matter without mention of the statutory provision for appropriation.

It will be remembered that under s. 41 (1) of the A.E.A., 1925, personal representatives may appropriate any part of the real or personal estate of the deceased in the actual condition or state of investment thereof at the time of appropriation towards satisfaction of any legacy bequeathed by the deceased, or of any other interest or share of his property, whether settled or not, as to the personal representative may seem just and reasonable, according to the respective rights of the persons interested in the property of the deceased. Then follow a number of provisoes which very considerably whittle down the powers of the personal representative. I will just summarise them as shortly as may be.

(i) No appropriation is to "affect prejudicially" any specific devise or bequest.

(ii) An appropriation is not to be made without the consent of (*a*) when made for the benefit of a person absolutely, the consent of that person; (*b*) when made in respect of a settled legacy, the consent of the trustees thereof (not being also the personal representatives) or the person entitled to the income. If the consent so required is that of an infant or lunatic or defective, consent may be given on his behalf by his parents or parent or guardian, committee or receiver, or in case of an infant where there is no parent or guardian, by the court.

(iii) No consent (save of such trustees as aforesaid) is required on behalf of a person unborn, or a person who cannot be found or ascertained.

(iv) If the person to give consent is a lunatic or defective and no committee or receiver has been appointed, consent is dispensed with if the appropriation is of trust investments.

(v) If independently of the personal representatives there is no trustee of a settled legacy or share and no person of capacity to give consent, then the consent may be dispensed with if the appropriation is of trust investments.

There are various ancillary provisions to which I need not refer, except to point out that sub-s. (4) enacts that "an appropriation made pursuant to this section shall bind all persons interested in the property of the deceased whose consent is not hereby made requisite," and that by sub-s. (8) the expression "settled legacy" includes an annuity.

This section is mainly useful because of the provisions regarding consents on behalf of infants and lunatics. Apart from this enactment, personal representatives have power to arrange with annuitants and legatees of full capacity to take a part of the estate in discharge of their claims, and in the case of annuities to agree to investments being set aside to meet them, and the trustees of settled legacies may make arrangements of that kind with the personal representatives.

It may be noticed with regard to sub-s. (4) that the effect is that the personal representatives of the deceased represent all the parties interested in the estate and can bargain with an annuitant as to the provision to be made, and come to an agreement which will bind all such other parties, but this they might do independently of the section.

It is, however, rather strange that the section omits to make any mention of the distribution of the remainder of the estate after the appropriation has been made, and does not, as one would have thought it might, free the remainder of the estate from liability. In fact, the section does not provide for "appropriation" properly so called.

That brings me to the question as to the effect of a setting aside of a fund to answer an annuity either under the directions contained in the will or under s. 41 of the A.E.A. In such cases the residue of the estate, although it may be distributed, is not freed from the annuity, unless of course the will of the deceased so directs.

The position is the same with regard to the appropriation made by the court, in order to allow a distribution of the residue.

In *Re Evans and Bettells' Contract* [1910] 2 Ch. 438, it was held that "where annuities and legacies are charged on property the court's jurisdiction to set apart a fund to answer the annuities and legacies and distribute the rest of the property is based on administration only and the exercise of the jurisdiction does not release the rest of the property, which, if the fund fails to answer the annuities and legacies, may be followed into the hands of those who take it."

That case came before the court on a vendor and purchaser summons. An order had been made for setting aside a fund to answer annuities and legacies and that had been done in the manner directed. Part of the residue consisted of freehold property which had been conveyed to the two persons entitled as tenants in common and they contracted to sell it. The purchaser objected to the title on the ground that the annuities and legacies remained a charge on the property notwithstanding the setting aside of the fund to answer them under the directions of the court. The purchaser's objection was upheld.

Parker, J., said that the jurisdiction of the court exercised in *Re Parry* and in *Harbin* v. *Masterman* (cases to which I referred in my former article) was for purposes of administration only, and did not release the rest of the estate. His lordship, however, gave leave to the vendors to apply to the court under s. 5 of the C.A., 1881, to have the land freed from the annuities and legacies.

Section 5 of the C.A., 1881, is now represented by s. 50 of the L.P.A., 1925, the effect of which is that where land subject to any incumbrance is sold or exchanged by the court or out of court, then on the application of any party to the sale or exchange, the court may direct or allow payment into court of (*a*) in case of an annual sum, or capital sum charged on a determinable interest, such a sum as when invested in government securities the court considers sufficient by means of the dividends to keep down or provide for the charge; (*b*) in any other case of a capital sum charged the sum to be paid into court shall be sufficient to meet the incumbrance and interest thereon. In addition, a sum is to be paid into court to meet costs, expenses and interest and any other contingency except depreciation of investments. The court may then, if it thinks fit, either after or without notice to the incumbrancer, declare the land to be freed from the incumbrance and make an order for conveyance or a vesting order to give effect to the sale or exchange. The court may also declare any other land affected by the incumbrance (besides the land sold or exchanged) to be freed therefrom.

This section of course, only applies to land. There seems to be no way of freeing other property from the charge even when a fund to answer it has been set aside under the direction of the court.

**Stamp Duty on Deeds Securing Periodical Payments.**

It is of interest to notice that the Court of Appeal has affirmed the decision of Rowlatt, J., in *Hennell* v. *Commissioners of Inland Revenue*, see [1932] W.N. 259 (76 Sol. J. 849). The case in the court below was reported 76 Sol. J. 397, and commented upon in "Current Topics," at p. 385. The question arose upon a deed which contained a covenant to pay a sum of £21 13s. 4d. upon the first day of every month, and the Commissioners of Inland Revenue had insisted upon the deed being stamped on the footing that it was a deed for securing an annuity of £260 payable by monthly instalments, and it was so stamped.

Rowlatt, J., held that he was bound by the decisions in *Clifford* v. *Commissioners of Inland Revenue* [1896] 2 Q.B. 187, and *Jackson* v. *Commissioners of Inland Revenue* (1902), 50 W.R. 666, to hold that the deed was not a security for an annuity and that the proper duty was 2s. 6d. for every £5 or part of £5 of the monthly payment, i.e., 12s. 6d., and not 2s. 6d. for every £5 or part of £5 of £260 (i.e., £21 13s. 4d.) as claimed by the Commissioners, and his lordship ordered repayment of the amount overpaid. The Court of Appeal has affirmed that decision.

Probably the Commissioners will be persistent and take the case to the House of Lords, as doubtless they anticipated that the cases cited would be followed in the court below and in the Court of Appeal.

I wonder in how many instances parties have given way on this point and stamped deeds of that kind as being securities for annuities. Quite a number, I should think.

## Landlord and Tenant Notebook.

**Encroachments by Tenants.**

THE effect of decisions dealing with encroachments made by lessees, is that it is well-nigh impossible for a tenant to acquire a freehold title by "squatting" on land adjoining the premises demised. If the land trespassed upon belongs to the landlord, the usual argument is that a tenancy at will has been granted, and that by uninterrupted disturbance the lessor's title has gone; but the difficulty is to prove the tenancy at will. In *Bryan d. Child* v. *Winwood* (1808), 1 Taunt. 208, there was evidence that the defendant had, more than thirty years (then the period of limitation) previously enclosed some land belonging to the lessor of the plaintiff, which lay between his house and the high road, and that he had done so without permission; but it was held that the presumption that it had been done with consent was not rebutted. In *Whitmore* v. *Humphries* (1871), L.R. 7, C.P. 1, the facts were that in 1835 the landlord happened to be passing when the tenant asked if he might enclose a little more land; the landlord assented, and it was agreed that the added portion should be held on the same terms as the premises demised. These were held under a lease for lives granted in 1812, and in 1867 the last life dropped. The County Court judge held that the 1835 transaction amounted to a parol demise which, by the operation of the Statute of Frauds, must be treated as a tenancy at will, and that the plaintiff's title was therefore barred by the R.P.L.A., 1833, s. 7. The Court of Common Pleas held that this inference was wrong, pointed out that the landlord ought not to be in a worse position because of his good nature and knowledge of what was happening, and decided that this was an encroachment, though assented to, and that the part added must, therefore, be deemed to be held on the same terms. The same rule was applied to copyholds in *Attorney-General* v. *Tomline* (1877), 5 Ch. D. 750, when it was held that encroachments made by a tenant on the waste were copyhold, at all events if the lord of the manor had by custom the right to make grants.

Of the more modern cases, *Tabor* v. *Godfrey* (1895), 64 L.J. Q.B. 245, may be contrasted with *East Stonehouse U.D.C.* v. *Willoughby Bros. Ltd.* [1902] 2 K.B. 318. Both cases may be said to demonstrate the fact that you may show a purchaser a plan, but cannot make him look at it; but in the one case the dispute was between landlord and tenant, and in the other between two tenants of the same landlord, and the results, in so far as the effect of using a plan were concerned, were different.

The tenant in *Tabor* v. *Godfrey* held one of two centre houses in a row of ten erected under a building lease granted in 1881. The houses, as the plan showed, were to be built on plots of the same frontage and of the same "depth," 80 feet, which left 4 feet for a passage at the back, and this strip was coloured brown and marked "right of way" on the plan. Nevertheless, the builder, from whom the defendant tenant derived title, extended the fence between Nos. 38 and 40 right on to the boundary wall, and at some time the occupiers of those houses extended their other fences and thus added to their gardens. This, of course, had the effect of preventing the general public from using the passage as a footway, though it must have been rather annoying for errand-boys charged with the task of delivering goods at the back doors of, say Nos. 36 and 42. When the landlords (assignees of the reversion) took steps to rectify matters in 1895, it was held that undisturbed possession by the tenant and his predecessors since 1881 had, in spite of the plan used in all mesne assignments, added the strip to the demised premises; but it had not given the tenant a freehold title, for he could not enter under one title and then set up another. No costs were awarded.

*East Stonehouse U.D.C.* v. *Willoughby Bros. Ltd.* entailed the examination of a good deal of history, commencing in 1819, when the common landlord had granted to a common predecessor in title of both parties, one J.M., a lease for ninety-nine years or three lives of a foundry. In 1831 the same lessor granted the same lessee a similar lease of adjoining premises, a stable and smith's shop. In 1842 J.M. assigned both leases to trustees. Either before then or before 1843 he had used the smith's shop and strip of land forming part of the stable premises with and as if they were part of the foundry; and subsequent occupiers had done likewise ever since.

In 1846, in accordance with a power of appointment conferred by the 1842 trust, J.M. made appointments to himself for life. Under these he held the foundry for life; on his death, his son was to receive the rent for life, and to have the right to occupy the foundry and to rent the smith's shop; on the son's death the trustees were to assign to the son's children. The other property was dealt with differently. J.M. died in 1848, and his son occupied the foundry, and with it the disputed parcels, till his death in 1853, but paid no rent for the smith's shop. The son's widow next occupied the premises, carrying on the foundry business for the benefit of the children, till 1856; and it was on the character of this occupation that the present case depended, for in 1856 a new lease was granted to the trustees, which continued in existence till 1890, less than twelve years before action brought. The inference drawn by Channell, J., was that the occupation by the widow was neither a trespass nor occupation as a tenant at will, but occupation by reason of possession of trust property with the assent of trustees; hence the proviso to s. 7 of the R.P.L.A., 1833, applied, and time did not run against the lessor.

But, even if it had, subsequent events led to the same result. For not only the foundry lease, but also that of the stable, were surrendered in 1856, and new leases were then granted; and in 1890 there was again a surrender and re-grant of the foundry, which meant that, if there were an accretion the accretion would (in accordance with the older decisions) be leasehold, so that the lessor acquired a new right of possession. So that when he granted another new lease of the stable property in 1894, again using the old plans and description, under which the present plaintiffs claimed, that lease included the disputed parcels.

### RENT RESTRICTION.

NO RE-CONTROL.

STATEMENT BY MINISTER.

In reply to inquiries, Sir Hilton Young, the Minister of Health, made the following statement to the Press last Saturday:—

"There appears to be a mistaken impression in many quarters that the Rent Restriction Bill will put back under control houses already decontrolled, and that it will put under control small houses to be built in the future.

"There is no foundation at all for that impression. The Bill does not re-control de-controlled houses. It does not bring any new houses under control.

"All that owners of de-controlled houses need do to secure the position is to register them.

"Since the language of the Bill is necessarily technical, this plain statement will serve, I hope, to prevent misapprehension and needless anxiety."

# "APPEALS" WHICH SHOULD NOT BE DISMISSED.

We are continuing our practice of calling attention, at this season of the year, to the appeals made by organised charitable institutions. Our Special Appeal at Christmas-time in past years has, we venture to hope, met with a certain amount of success, and we therefore give the following details of some of the deserving institutions which are badly in need of support :-

There are always 8,300 children in Dr. Barnardo's Homes ; the largest family in the world—all of whom became members by reason of their destitution, for the Charter of the Homes is "No destitute child ever refused admission," and on an average five children are admitted every day. In their sixty-six years of work the Homes have admitted the large total of 112,656 children. Over 1,500 young people leave them each year trained and fitted to take their places in the world. Dr. Barnardo's Homes earnestly invite the co-operation of all child lovers to make this a really happy Christmas for every boy and girl in their large family. Donations will be gratefully received by The Treasurer, Dr. Barnardo's Homes, 18-26, Stepney Causeway, London, E.1.

The Shaftesbury Society and R.S.U., founded in the "Hungry Forties," is facing a very difficult winter in its varied service for the crowds of children and families packed in miserable homes in mean streets. The 170 Associated Missions in Greater London are in the full swing of the season. Special agencies minister to human needs from before birth to old age, as in Ante-Natal Clinics, Infant Welfare Centres and Day Nurseries, Medical Missions, Meetings for Women, Grandfathers and Old Age Pensioners. Some 5,500 voluntary workers are engaged in these, and in Sunday Schools and Services, Scouts, Guides, Brigades, Bands of Hope, and in the 120 Cripple Parlours and Senior Guilds for the 8,300 cripples on the Society's Register. The four Seaside Residential Schools have now in them over 250 crippled and ailing children. Last year's expenditure exceeded £62,000. Gifts of money or of goods will be gratefully acknowledged if sent to Arthur Black, General Secretary, John Kirk House, 32, John-street, W.C.1.

Among the many other deserving charities, whose principal objects are child welfare, should not be forgotten the National Children's Home and Orphanage, Spurgeon's Orphan Homes, Royal Soldiers' Daughters' Home, Homeless Children's Aid and Adoption Society, and last, but by no means least, the N.S.P.C.C. It does not seem possible that such a country as this should still require a society, not merely to direct it in the proper care of its children, but in fact to protect children from the maltreatment of their parents, or others having control or care of them. Gifts to any of these deserving objects should be sent respectively to The National Children's Home and Orphanage, Highbury Park, N.5 ; Spurgeon's Orphan Homes, Clapham-road, Stockwell, S.W.9 ; Royal Soldiers' Daughters' Home, 65, Rosslyn Hill, Hampstead, N.W.3 ; The Homeless Children's Aid and Adoption Society, 93, Westminster Bridge-road, S.E.1 ; and the N.S.P.C.C., Victory-house, Leicester-square, W.C.2.

We feel that this appeal would not be complete without mention being made of the splendid work done by our many hospitals, and special attention is called to a few urgently in need of funds. Cancer is a painful thing to think of ; but the Cancer Hospital is a cheering thing. There will be an extra and a special glow of Christmas happiness, we imagine, in the heart of any man or woman who has made some little sacrifice to assist that institution in its work of healing. The hospital has a splendid record, not only of devoted healing and nursing work, but in the vitally important service of cancer research. Legacies, subscriptions and donations will be welcomed by the Secretary, The Cancer Hospital, Fulham-road, S.W.3. The Imperial Cancer Research Fund carries on a work of the greatest importance to mankind, and donations in support of this fund should be sent to the Treasurers, Queen-square, W.C.1.

The National Hospital in Queen-square, W.C.1, which specialises in the relief and cure of nervous diseases, paralysis and epilepsy, is in need of help ; as also are the Hospital for Sick Children in Great Ormond-street, W.C.1, which is the oldest voluntary hospital for children in the British Empire, and the Hospital for Epilepsy and Paralysis in Maida Vale, W.9.

There are many other hospitals urgently in need of assistance, and although space does not permit us to refer to them all specifically, we feel that Guy's Hospital, at London Bridge, S.E.1, and Westminster Hospital, S.W.1, should not be forgotten.

The Royal Surgical Aid Society, which was established in 1862 to supply spinal supports, artificial limbs, etc., has supplied over 1,450,000 appliances to the poor. Donations will be thankfully received by the Secretary at the offices of the Society, Salisbury-square, Fleet-street, E.C.4.

Among charities not confined to the care of the sick or of children, St. Dunstan's, whose headquarters are at Inner Circle, Regents Park, N.W.1, is perhaps one of the best known. The badge of St. Dunstan's is a flaming torch. This torch has lightened the darkness of thousands of blinded men, revealing the way to new life and new hope for them and for their wives and children. Until the last of them has gone the way of all mortal flesh a solemn charge is laid upon our generation to keep the torch undimmed. A special appeal is also made on behalf of Earl Haig's British Legion Appeal Fund, and there is little doubt that a Christmas present, large or small, addressed to Captain Willcox, Haig House, Eccleston-square, S.W.1, on behalf of that fund would be doubly welcome.

For some years past, the development of a spirit of self-help among our sightless population has been the main aim of the National Institute for the Blind, of 224-6-8, Great Portland-street, W.1. Apart from its Sunshine Homes for Blind Babies, care of the aged and infirm, production of embossed literature, and other charitable activities, the Institute is following a definite programme to enable the blind to become self-supporting citizens.

The many and varied works of the Church Army are also apparent to most of us, and its labours on behalf of humanity at this period of the year are only limited by its income. Donations or other gifts to increase this should be sent to Preb. Carlile, C.H., D.D., Hon. Chief Secretary, 55, Bryanston-street, S.W.1. The Salvation Army also contributes a vital service to the nation ; but it cannot be maintained without large support. The headquarters are at 101, Queen Victoria-street, E.C.4. Seven hundred of the poorest hungry and ragged children are fed with a solid meal every evening at the Hoxton Market Christian Mission, while the doors are open all day to help those in deep distress. Funds are needed to maintain this institution, and should be sent to the Secretary of the Mission, at Hoxton, N.1.

During the past 114 years the British Sailors' Society has done signal work for the welfare of seagoing men. Its hostels, situated near the quayside of over 100 world-ports, welcome the men with outstretched arms and brotherly love as they cross the gang plank. Good food is provided and free beds are available for those unable to meet expenses. Generous support, however, is necessary, and donations will be gratefully received at 680, Commercial-road, E.14.

Funds are urgently needed to maintain the existing pensions and to assist the ever-increasing number of deserving cases cared for by the Distressed Gentlefolk's Aid Association, the address of which is 75, Brook Green, S.W.6, and by Miss

Smallwood's Society for the Assistance of Ladies in Reduced Circumstances, at Lancaster House, Malvern. The National Benevolent Institution, of 65, Southampton-row, W.C.1, also greatly needs additional support.

The Central Discharged Prisoners' Aid Society, of Rooms 34 and 35, Victory House, Leicester-square, W.C.2, annually cares for many thousands of discharged prisoners or dependents of individuals serving sentences, and urgently needs assistance, whether by way of legacy, donations or offers of employment, in order to continue its good work.

Support to enable them to carry on their good work in the treatment of animals is required by the Royal Veterinary College, of Camden Town, N.W.1, the People's Dispensary for Sick Animals, of 14, Clifford-street, New Bond-street, W.1, and the Animal Defence and Anti-Vivisection Society, of 35, Old Bond-street, W.1.

These are obviously only a few of the many and varied charitable organisations urgently requiring funds, but we feel that maybe this short mention of them may assist readers of this page who are desirous of making at this festive season some small contribution to the happiness and welfare of those less fortunate than themselves.

## Our County Court Letter.

### THE LIABILITIES OF AMUSEMENT CATERERS.

In the recent case of *Horam* v. *Weston-super-Mare Grand Pier Co. Ltd. and Guy* the claim was for £100 as damages for trespass or breach of implied covenant for quiet enjoyment, alternatively (if the plaintiff was not a tenant but a licensee) a like sum for breach of contract. The plaintiff's case was that (*a*) on the 12th June he verbally agreed to take a site on the pier for the season, i.e. until October; (*b*) having taken possession on the 2nd July, he was unlawfully refused admission on the 31st July; (*c*) although he had only occupied the site for four weeks, the defendants demanded £12 (six weeks' rent) as a condition of releasing his apparatus; (*d*) £4 of this sum was returnable, and the plaintiff had lost ten weeks' profit at £20 a week. The first defendants' case was that (1) their private statute only received the Royal Assent on the 12th July, and, as illegal games were thereby prohibited, they were not permitted beforehand; (2) the defendant installed a game called "The Wireless Ducks," which was operated to the detriment of the public, and he also had a roulette board on his stall; (3) the second defendant (as managing director) therefore terminated his tenancy; (4) the latter was not for the season, but was a weekly tenancy. His Honour Judge Parsons, K.C., held that (*a*) the letting was weekly at £2 a week; (*b*) proper notice was given to terminate on the 23rd July; (*c*) alternatively, if the tenancy or licence was for the season, the playing of illegal games had justified the defendants in summarily terminating the contract; (*d*) as the tenancy began on the 18th June, and not on the 2nd July, the sum of £4 was not returnable. Judgment was therefore given for both defendants, with costs.

### THE RIGHTS AND LIABILITIES OF SEEDSMEN.

In the recent case of *Keen* v. *Suffolk Seed Stores Limited*, at Saxmundham County Court, the claim was for £11 2s. 6d. as damages for (1) the loss of two crops; (2) the annual value of two acres of land; (3) the cost of cultivation. The defendants counter-claimed £1 8s. 6d., as the price of 10 lb. of marrow-stemmed kale seed, but the latter was alleged by the plaintiffs to have yielded a crop of turnips. His case was that he had untied the bag himself and had put the seed into the drill, and corroborative evidence was given by his horseman and by a neighbouring farmer, who had borrowed some of the seed. The defendants' case was that: (1) the above quantity of seed would not have been put into the bag produced, and (2) in their warehouse the kale and turnip seeds were kept at opposite ends, so that there could be no confusion. His Honour Judge Hildesley, K.C., gave judgment for the defendants, with costs. Compare "Liability for Failure of Experimental Crop" in the "County Court Letter" in our issue of the 20th August, 1932 (76 Sol. J. 590).

### THE REMUNERATION OF DOCTORS.

In *Rowland* v. *Seabrooke*, recently heard at Colchester County Court, the claim was for £10 10s., being a fee for a consultation with another doctor, who was the defendant's usual medical attendant. Owing to a complaint that the fee was excessive, the plaintiff had offered to accept seven guineas—if the defendant would send three guineas to the nurses' home of the Essex County Hospital. His Honour Judge Hildesley observed that it was relevant to ask the nature of the malady, and this was written down by the plaintiff. The defendant's case was that (1) he had since seen a specialist in Harley Street, who only charged three guineas; (2) the consultation had not taken two hours, as alleged. It was held that (*a*) the length of time was irrelevant; (*b*) the specialist would have charged fifty guineas for a visit to Essex; but (*c*) as the plaintiff was not a specialist, he was only entitled to judgment for £5 5s. and costs. For a prior reference under the above title, see the "County Court Letter" in our issue of the 14th May, 1932 (76 Sol. J. 340).

## Practice Note.

### LESSEE TO LANDLORD'S EJECTMENT PLEADING POSSESSION.

Order 21, Rule 21.

We are indebted to the contributor of an article under the above title in our issue of 30th January, 1932 (76 Sol. J. 73), for the following additional observations:—

"The Annual Practice for 1933 in its notes to Order 21, r. 21, contains a warning against the defendant tenant pleading such a defence. It refers to my prior article on the point (76 Sol. J. 73), dealing with the case of *Barton* v. *Reed*, heard before Luxmoore, J., on 27th October, 1931, which case on the amended defence, as decided on the merits, at the adjourned hearing, is now reported *Barton* v. *Reed* [1932] 1 Ch. 362.

The warning in the Annual Practice, 1933, possibly indicates a doubt whether such a plea does set up claim to the fee in the lessee himself. It seems clear that it does.

Possession is, and always has been, evidence, and unless such possession is proved to be qualified, then conclusive evidence, of seisin in fee simple: 'Williams Seisin,' 7, 'Pollock and Wright on Possession,' 25.

The defendant by his plea asserts his unqualified possession, and not only this, but further by the words of the rule he expressly denies the landlord's title to the reversion, and the fact of the lease; what can this be, but a claim of the fee in himself, the tenant?

I may add that, though as in the prior article stated, the point was not actually argued, yet as often as the lessee's counsel in *Barton* v. *Reed*, whether at the original or the adjourned hearing, referred to the plaintiff's objection to this plea as a 'technicality,' so often the judge responded with the one word 'fatal.'

Moreover the tenant and all claiming under him, whether as assign or underlessee, are estopped from denying the landlord's title to grant the lease.

F. E. Farrer."

A UNIVERSAL APPEAL

To Lawyers: For a Postcard or a Guinea for a Model Form of Bequest to the Hospital for Epilepsy and Paralysis, Maida Vale, W.9.

# In Lighter Vein.

THE WEEK'S ANNIVERSARY.

Religion and the law seem to have gone hand in hand at the beginning of the last century. While Lord Ellenborough, son of a bishop and brother of two more, wore the collar of Lord Chief Justice of England, Mr. Justice Dampier, born on the 21st December, 1758, son of a dean, son-in-law of an archdeacon and brother of a bishop and of a canon, had a place in the Court of King's Bench. A pleasant and obliging judge who tempered legal erudition with classical knowledge, he, unfortunately, enjoyed judicial honours only for a very short space. Appointed in 1813, he died in 1816.

RIPOSTE.

Speaking at the festival dinner of the Solicitors' Managing Clerks' Association, Lord Tomlin referred to the new offices of the organisation in Arundel-street, adapting to the situation the old verse :—

" At the top of the street three lawyers reside,
At the bottom of the street three coal barges glide,
Fly, honesty, fly to a safer retreat,
For there's craft in the river and craft in the street."

These lines, according to the late Crispe, K.C., go back to the time when there was no Embankment to hold back Thames' waters from the Essex Stairs. They are supposed to have been written in the call book of a firm of solicitors in Essex-street by a client who had looked in and found the partners out—in every sense, perhaps, if one reads the innuendo. However, it is only fair to the profession to cite the reply inscribed by another client who called just afterwards. Thus ran the rejoinder :—

" Why should honesty fly to some safer retreat ?
There's no truth in your maxims ('od rot 'em !)
For the lawyers are *just* at the top of the street
And the barges are *just* at the bottom."

A slightly different version of the first verse refers to Craven Street, Strand, and the reply to this is said to have been composed by a Mr. Horace Smith, a solicitor.

SWIFT JUSTICE.

The committee lately appointed by the Lord Chancellor to locate the creak in our system of appeals, assizes, grand juries, and long vacations, promises businesslike acceleration of the wheels of legal procedure, and the old mill of justice may soon grind less slowly. Still, "*festina lente*" was a legal tradition centuries before Gilbert's eminent Chancellor and one may find the same spirit of calm deliberation (or is it the bogey of *Jarndyce* v. *Jarndyce* ?) even in the pages of the Year Books. Thus, in 35 Hen. VI, we find counsel's application for judgment received by Priscot, Chief Justice, with an almost outraged astonishment : " I marvel mightily that you are so hasty in this matter, for it is a weighty matter, and I have seen similar matters pending for twelve years and this matter has been pending only three-quarters of a year." Three hundred years later, Lord Eldon was acting on the same principles, but now justice is made swift as well as sure—just as Einstein has declared that " the pace of life is too fast " and must be reduced.

RATS AS DEFENDANTS.

It was recently pointed out in the House of Lords that an infestation of musk rats is threatening parts of England. The preventive measures taken do not, however, include resort to legal process in the spirit of the old French law books which, as late as 1650, dealt with the proper procedure against such creatures as rats, leeches and flies and the mode of appointing counsel to represent them. Among prosecutions of this class, which were not uncommon in mediæval France, the suit against the rats infesting the diocese of Autun provided a fine example of ingeniously obstructive pleading. When the defendants failed to appear to the first summons, their advocate persuaded the court to summon them parish by parish. Next, he pleaded for an extension of time for the sick and the aged. Finally, in order to insure the safe conduct of his clients, he demanded that the owners of cats should be bound for the good behaviour of their pets. It was at this point, apparently, that the proceedings broke down. The whole thing ranks with the Wonderland trial of the Knave of Hearts, but Chassanée, counsel for the rodents, lived with honour and died in 1545, President of the High Court of Provence.

# Correspondence.

## Divorce for Insanity.

Sir,—Seeing your leading article of 10th December on " Divorce for Insanity," I venture to ask if you can find space for a few words from the medical point of view. It is not generally recognised that according to the Lunacy Act, 1890, the petitioner in private cases, i.e., the next-of-kin, usually husband or wife, who consigns the other to detention, possesses almost absolute powers over the liberty of the person detained —a power which can be exercised for the express purpose of keeping him or her under detention for five years *with a view to divorce*. Until the law is altered in this respect, it is a manifest injustice to allow of divorce in the given circumstances.

If a husband or wife should turn out to be intractable, inconvenient or troublesome, what is simpler than to suggest that the mind is affected ? Instances occur daily. It is quite an easy thing to devise reasons for certification. Once certified, the petitioner is all-powerful. It is unjust also to stress five years' detention. The conditions of asylum life do not conduce to speedy cure, and when to this atmosphere of depression there is added the apprehension of divorce, the scales are heavily weighted against the recovery of the victim. As you rightly maintain, it is unjustifiable to penalise the respondents for that for which they are not accountable.

It is becoming more and more difficult for a responsible doctor to prophesy that mental disorder is *incurable*, in view of the new remedies daily discovered for cases hitherto considered hopeless, and the undoubted fact that, under more auspicious environment, quite a large number of recoveries occur after the lapse of many years.

S. E. WHITE, M.B., B.Sc. (Lond.).

Manor Park, E.12.
14th December.

## Perjury in the Courts.

Sir,—In *The Times* of the 12th inst. Mr. Justice McCardie is reported to have said : " In criminal offences perjury had become as a matter of course. I am satisfied that in a good many, perhaps in the majority, of civil cases, perjury is committed in greater or less degree. It is widespread and serious."

If the learned judge is right, it is indeed serious. Does it follow that verdicts of juries and decisions of judges are very often wrong in consequence ? If so, it is a sad thing for British justice, which is regarded as the best in the world.

If a judge is satisfied that perjury has been committed in the course of a trial, he has power to direct the prosecution of the offender. It would be extremely interesting to learn whether his lordship's views are shared by his colleagues.

Gray's Inn, W.C.1. J. ROWLAND HOPWOOD.
14th November.

[The above letter is referred to in a " Current Topic " under the same title, at p. 878 of this issue.—ED., *Sol. J.*]

Mr. Graham Keith, solicitor, of Southampton-street, W.C., and of Kensington, left £26,520, with net personalty £20,155.

# Notes of Cases.

## House of Lords.

### Lazard Brothers & Co. Ltd. *v.* Midland Bank Ltd.

28th November.

SERVICE OUT OF JURISDICTION—RUSSIAN BANK—NON-EXISTENT CORPORATION — JUDGMENT IN DEFAULT — GARNISHEE ORDER SET ASIDE—PROCEEDINGS DECLARED A NULLITY.

This was an appeal from an order of the Court of Appeal reversing an order of Roche, J., who had made absolute a garnishee order *nisi* obtained by the plaintiffs in respect of money which he found to be owing by the Midland Bank to the Banque Industrielle de Moscow. The order *nisi* was based on a judgment obtained by the plaintiffs against the Russian Bank in default of appearance. In November, 1930, judgment was entered for Lazard Brothers against the Russian Bank for £364,471 and costs in default of appearance. The Russian Bank went out of existence in the revolution of 1917. Roche, J., decided in favour of Lazard Brothers, but the Court of Appeal reversed that decision, and Lazard Brothers now appealed.

Lord WRIGHT, in giving judgment, said the first point was decisive since it was clear law, scarcely needing any express authority, that a judgment must be set aside and declared a nullity by the court in the exercise of its inherent jurisdiction if it appeared to the court that the person named as the judgment debtor was at all material times non-existent. Such a case was *a fortiori* than the case which Lord Parker referred to in *Daimler Co.* v. *Continental Tyre and Rubber Co.* [1916] 2 A.C. 307. In the present case, if the defendants could not be before the court because there was in law no such person, the court must refuse to treat the proceedings as other than a nullity. The conclusion that the Russain Bank went out of existence in 1917 was sufficient without more to show that the writ, the judgment and the garnishee proceedings must be set aside. As to the other question with reference to the service of the writ, the judgment in default of appearance based on such service was itself a nullity, and with it all the garnishee proceedings fell to the ground. The appeal should be dismised with costs.

Lords BUCKMASTER, BLANESBURGH, WARRINGTON and RUSSELL agreed.

COUNSEL: *Stuart Bevan*, K.C., and *August Cohn*; *Wilfrid Greene*, K.C., *D. B. Somervell*, K.C., and *F. J. Tucker*.

SOLICITORS: *Linklaters & Paines*; *Coward, Chance & Co.*.

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

## Court of Appeal.

### Freshwater *v.* Western Australian Insurance Company Limited.

Lord Hanworth, M.R., and Romer, L.J. 22nd November.

INSURANCE—THIRD-PARTY RISK—INJURED PARTY'S CLAIM AGAINST BANKRUPT INSURED—RESULTING RIGHT AGAINST INSURERS—RIGHT SUBJECT TO CONDITIONS OF POLICY—THIRD PARTIES (RIGHTS AGAINST INSURERS) ACT, 1930 (20 & 21 Geo. 5, c. 25), s. 1—ROAD TRAFFIC ACT, 1930 (20 & 21 Geo. 5, c. 43), s. 36 (5).

This was an appeal from Swift, J., on an interlocutory summons.

The plaintiff recovered £300 damages against Leslie Harper for injuries in a motor accident, but Harper became bankrupt. The defendants in the present action were the insurers of Harper at the time of the accident, but they repudiated liability on account of his alleged misrepresentations when taking out the policy, and the plaintiff accordingly issued the writ against them, contending that, under s. 1 of the Third Parties (Rights Against Insurers) Act, 1930, they were accountable to him for the amount of the judgment. The defendants issued a summons for an order that the action should be stayed, on the ground that there was in the policy the usual arbitration clause, and that the obtaining of an award was a condition precedent to the taking of any proceedings with regard to the policy; and they alleged that in that respect the Act of 1930 had given the plaintiff no wider rights than he had before. Swift, J., refused the application, and directed the action to go into the New Procedure List. The defendants appealed, the court allowed the appeal.

Lord HANWORTH, M.R., said that the plaintiff took up the attitude that he did not care what were the terms of the policy, because, by reason of recent legislation, he could demand to have the £300 paid to him. He said that where a person was insured and became bankrupt, then, by reason of s. 1 of the Third Parties (Rights Against Insurers) Act, 1930, a person injured in an accident could claim to have the amount payable under the policy paid to him in lieu of the bankrupt. That might in a sense be true. The section said, "where under any contract of insurance a person . . . is insured against liabilities to third parties." The terms were plain enough, and they provided that in cases of bankruptcy of the insured the right might pass on to the injured person. But that depended primarily on whether the person in question was really insured and on what rights he might have against the insurers. The plaintiff, however, contended that even if the Third Parties (Rights Against Insurers) Act, 1930, did not get him home, yet he was entitled to succeed by reason of s. 36 (1) of the Road Traffic Act, 1930. That section said that a policy must be issued by an authorised insurer, and that it "insures such persons . . . as may be specified in the policy in respect of any liability which may be incurred by him or them . . . "; while by sub-s. (5) it was provided that a certificate should be given by the insurer to the person by whom the policy was effected "in the prescribed form and containing such particulars of any conditions subject to which the policy is issued, and of any other matters as may be prescribed." Harper had had that certificate, and had been an insured person within the meaning of the two Acts, and therefore the plaintiff's argument was that he was entitled to say to the insurers, "I am an injured person, pay me the sum which you have insured." But the words of those Acts did not mean that one looked at the names of the insurers and the insured, and that, having done that, one could disregard all the conditions of the policy. In his (Lord Hanworth's) view the policy itself had still to be looked at. The rights of a third party could not eliminate all the terms of the contract. The third party was bound by the clauses of the contract, *inter alia*, by that as to arbitration. The appeal would therefore be allowed and the action stayed. In sending the case for arbitration, however, it was important to remember that if questions of law arose they could be submitted to the court under the Arbitration Act, 1889, or a case could be stated.

COUNSEL: *Van den Berg*, K.C., and *G. J. Paull*, for the appellants; *Croom-Johnson*, K.C., and *Martin O'Connor*, for the respondent.

SOLICITORS: *Shaen, Roscoe, Massey & Co.*; *J. Nixon Watts & Co.*

[Reported by G. T. WHITFIELD-HAYES, Esq., Barrister-at-Law.]

## High Court—Chancery Division.

### *In re* William C. Leitch Brothers, Ltd.

Eve, J. 24th November.

COMPANY—WINDING UP—FRAUDULENT TRADING—MONEYS RECOVERED BY LIQUIDATOR AGAINST DIRECTOR—TREATED AS GENERAL ASSETS — NO PREFERENTIAL RIGHT IN DEFRAUDED CREDITORS—COMPANIES ACT, 1929, s. 275.

This was an application by the liquidator of the company for directions in respect of a sum of £6,000 for which he had recovered judgment against a director of the company, that it

ought to be dealt with as general assets of the company and be applied accordingly. A declaration had been made by Maugham, J., under s. 275 of the Companies Act, 1929, that the respondent William C. Leitch, a director of the company, having been knowingly a party to the carrying on of the business of the company with intent to defraud its creditors, was personally liable without any limitation of liability in respect of the sum of £6,000. The liquidator having recovered some £3,356 on account of the £6,000, required directions how to deal with the moneys, the substantial question being whether they formed part of the general assets, or ought to be applied to any restricted class of creditors.

EVE, J., in a reserved judgment, said he did not think that s. 275 could properly be construed as one for adjusting the rights of the creditors *inter se*. Such a construction involved too many difficulties, particularly under sub-s. (2). No doubt the section presented difficulties, but it was one of a group of sections, 271 to 277, dealing with offences antecedent to or in the course of winding up. It could only be brought into operation in the course of a winding up, and in cases where there was *primâ facie* evidence of the company's business having been carried on for fraudulent purposes. It was not a section which controlled the administration of the assets of the company. It imposed a liability, but did not purport to create any new rights for creditors. It could not be regarded as involving any departure from the general scheme of winding up which was a *pari passu* distribution of the assets. The conclusion he arrived at was that the moneys recovered by the liquidator ought to be dealt with as general assets and applied accordingly.

COUNSEL: *John Bennett; Allan Walmsley; R. A. Forrester.*
SOLICITORS: *Bernard Kuit & Co.*, Manchester.

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

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# Obituary.

## SIR J. DUNCAN MILLAR, K.C.

Sir James Duncan Millar, K.C., Liberal M.P. for East Fife, died on Saturday, the 10th December, at the age of sixty-one. He was educated at Edinburgh University, and was called to the Scottish Bar in 1896 and to the English Bar by the Middle Temple in 1897. He took silk in 1914, and was Senior Advocate-Depute from 1913 to 1916. He first entered Parliament as Liberal member for St. Andrews Burghs in 1910, and last year he was returned unopposed as a supporter of the National Government for East Fife. He was knighted in the last New Year Honours.

## MR. G. A. CAVE-ORME.

Mr. G. A. Cave-Orme, Barrister-at-Law, died recently. He was born in Australia, but came to England in 1886, and on coming down from Emanuel College, Cambridge, he was called to the Bar by the Middle Temple in 1892. He practised in London and on the Midland Circuit.

## MR. J. H. DENNIS.

Mr. J. H. Dennis, solicitor, a partner in the firm of Messrs. Southwell & Dennis, of Wisbech, died at his home at Wisbech on Monday, the 5th December, at the age of sixty-eight. Mr. Dennis was educated at King Edward VI Grammar School, Louth, and served his articles with Messrs. Ellison, Burrows and Freeman, solicitors, of Cambridge. He was admitted in 1887, and entered into partnership with Mr. A. Southwell the following year. Mr. Dennis was President of the Cambridge Law Society in 1907, and held many other public offices.

## MR. T. N. FISHER.

Mr. Thomas Norman Fisher, solicitor, Town Clerk of Bewdley, and a member of the firm of Messrs. Weston, Fisher and Weston, solicitors, of Kidderminster, died recently. Mr. Fisher was admitted a solicitor in 1906, and began his professional career in Dudley. He was appointed Town Clerk of Bewdley in 1926.

## MR. W. F. HALL.

Mr. William Frederick Hall, solicitor, of Walsall, died recently at his home at Streetly. He was admitted a solicitor in 1891, and practised in Walsall for many years. He was at one time Clerk to Brownhills District Council, but retired about two years ago.

## MR. A. F. T. SHAPLAND.

Mr. Arden Francis Terrell Shapland, solicitor, of Brighton, died at his home there on Thursday, the 8th December. Mr. Shapland, who was admitted a solicitor in 1893, was sole partner in the old-established firm of Messrs. Evershed and Shapland, of Brighton.

# Books Received.

*House of Lords or Senate?* By CUTHBERT HEADLAM, M.P., and DUFF COOPER, M.P. 1932. Crown 8vo. pp. 103. London: Rich & Cowan, Ltd. 2s. net.

*Rayden and Mortimer on Divorce.* Third Edition. 1932. By CLIFFORD MORTIMER, Barrister-at-Law, and HAMISH H. H. COATES, of the Probate and Divorce Registry, assisted by F. S. H. BRYANT, Barrister-at-Law. Demy 8vo. pp. cxxxvi and (with Index) 803. London: Butterworth and Co. (Publishers), Ltd. 42s. net.

*Digest of Bankruptcy Law in the British Empire.* 1932. Medium 8vo. pp. 264. London: Federation of Chambers of Commerce of the British Empire. 10s. 6d. net.

*Georgetown Law Journal.* Vol. XXI. No. 1. November, 1932. Washington: Georgetown Law Journal Association. Subscription, $2.50 per annum. Single copy, 75 cents.

# The Traffic Commissioners' First Year.

THE Road Traffic Act, 1930, in its Parts IV and V, laid down that all public service vehicles, i.e., motor omnibuses and motor coaches, should be brought under official control from the 1st day of April, 1931. The Act established thirteen traffic areas, which cover the whole of England, Scotland and Wales, each being supervised by a body of Traffic Commissioners. Except for the Metropolitan Area, where there is only one Commissioner, each area has three: the chairman is a whole-time salaried officer and the others are unpaid and appointed from two panels of persons nominated by the county councils and by the county boroughs, boroughs and urban districts respectively. When the Commissioners arrived early in 1931 at their headquarters, they found a bewildering state of affairs. Only a relatively small number of the local authorities in each area had issued licences, and the Commissioners found themselves faced with what at its best was a chaos and at its worst an Augean stables of reckless and unorganised competition between innumerable small operators on the more populous routes, to the detriment of the large companies which were doing their best to provide regular services in sparsely populated areas as well. Operators charged the fares that suited them, ran at what times they pleased, and for as long hours as they found convenient; many vehicles were in an unsatisfactory and some in a definitely unsafe condition. To paraphrase the report of the West Midland Commissioners concerning the Potteries, the main route through the Five Towns, about seven miles of road, was traversed by some ninety omnibuses, owned by twenty-five different companies or individuals divided into two groups; no time-table existed and the vehicles shuttled up and down in a continuous game of leap-frog, with an average frequency of less than a minute at peak times. In all areas this kind of competition made the roads peculiarly dangerous because of the inducement it offered to racing and the practices known in the slang of the trade as "chasing," "creaming," and "lying back."

The Commissioners, however, at once got to work with their skeleton staffs and, with the help of the police and local authorities, got in touch with most of the operators and obtained from them the applications in the proper form for consideration. Much educational work had to be done in order to persuade operators, particularly the smaller ones, that it was necessary to comply with the new law. The first annual reports,* covering the period from the beginning of 1931 to 31st March, 1932, while they contain a faithful record of the progress made, convey only an approximate idea of the difficulties that were encountered and the immense amount of hard and complicated work that was done. Several thousand vehicles in each area had to be carefully examined by the vehicle inspectors to ascertain if they were fit to licence; and an even larger number of would-be drivers had to be tested; applications for conductors' licences had to be considered, and as a preliminary to granting road service licences to operators—the licences which fix the number of vehicles, time-table, fare and other conditions of operation of each individual service—each application had to be heard at a public sitting, together with the arguments of objectors. These hearings, in which parties were often represented by counsel or solicitors, usually took a very long time, and much of the work of the Commissioners has been to sit for long hours on several days a week in council chambers and courts of justice exercising this judicial function. Reading between the lines of the reports, one obtains an idea of the superhuman tact, patience and perseverance that has been necessary to find out the needs of the areas, to make a connected scheme, and to impose it on the operators with the minimum of hardship, friction and compulsion. The figures for prosecutions before magistrates vary considerably, but on the whole they have been extremely few, and compliance has usually been obtained by more persuasive methods. The result of even the first year's working has been to make the main routes infinitely safer and more regular, and to remove the tension which existed on thickly-populated routes in industrial districts; to reduce the speed at which long-distance coaches were in the habit of travelling, and to ensure that each vehicle plying for hire shall be as safe as careful inspection can make it. As time goes on, the areas will become progressively more settled: operators will know what is required of them; more and more groups of competitors will agree on co-ordinated fares and times; public hearings will amount largely to the formal renewal of previously-held licences under the same or slightly modified conditions, and applications for new services or extensions of old ones will be considered in accordance with a scheme in full working order, and therefore be much less open to the complicated argument and objection that has marked so much of the proceedings hitherto. On the other hand, the peculiar knotty problems of each district will make themselves more disagreeably felt. Nevertheless, the Commissioners have shown such outstanding ability and public spirit that the administration of this very important, vigorous and delicate industry can be left in their hands with the fullest confidence.

* H.M. Stationery Office, Adastral House, Kingsway, W.C.2. pp. 107. 2s. 6d.

# Societies.

## The Hardwicke Society.

The annual ladies' night debate was held in the Inner Temple Hall on Thursday, 8th December. The President, Mr. Vyvyan Adams, M.P., took the chair at 8.17 p.m. In public business Miss D. T. Wolfe (L.I.) moved: "That the policy of His Majesty's Government is inadequate and ill directed in regard to the establishment of world peace." Mr. A. Newman Hall (I.T., Hon. Treasurer) opposed. Mr. James Maxton, M.P., spoke third. The Right Hon. Lord Eustace Percy, M.P., spoke fourth, and Mr. Maxton replied. On a division there voted, for the motion 106, and against the motion 136; the motion therefore was lost by thirty votes. A vote of thanks to the Treasurer and Masters of the Bench of the Inner Temple for their courtesy in allowing the Society the use of their hall and for their generosity in supplying refreshments, was proposed by the Vice-President, seconded by the Hon. Secretary, put, and carried by the House. The House stood adjourned at 10.30 p.m.

## The Union Society of London.

A meeting of the Society was held at 8.15 p.m. in the Middle Temple Common Room on Wednesday, 7th December. Mr. Hurle Hobbs (ex-President) was in the chair, and there were nineteen members and visitors present. Mr. D. F. Brundrit proposed "That the Government's economy policy is to be deplored." Mr. H. Everett opposed. There spoke, in favour of the motion, Mr. Kenneth Ingram, Mr. Glanville Brown; and against, Capt. Ellershaw, Mr. F. M. Symmons, Mr. S. J. Thorne, and the Hon. Secretary. The hon. proposer having replied, the House divided and the motion was lost by four votes.

A meeting of the Society was held at 8.15 p.m. in the Middle Temple Common Room on Wednesday, 14th December. The President (Mr. Alexander Ross) was in the chair, and there were thirteen members and visitors present. Mr. P. Winckworth proposed: "That the British Empire as an economic unit would be a menace to world co-operation." Captain Ellershaw opposed. There spoke in favour of the motion the President, Mr. Kenneth Ingram, Mr. A. Sandilands, the Hon. Treasurer; and against, Mr. Hurle Hobbs, Mr. W. H. Coombs, Mr. J. H. Coram, and the Hon. Secretary. The hon. proposer having exercised his right of reply, the house divided, and the motion was carried by the casting vote of the President.

## Law Association.

The usual monthly meeting of the Directors was held at The Law Society's Hall on Thursday, the 8th December, Mr. G. D. Hugh-Jones in the chair. The other Directors present were Mr. E. B. V. Christian, Mr. Guy H. Cholmeley, Mr. Douglas T. Garrett, Mr. Frank S. Pritchard, Mr. John Venning, Mr. William Winterbotham, and the Secretary, Mr. E. E. Barron. A sum of £135 was voted in relief of deserving applicants, and a further sum of £189 to be distributed in Christmas gifts to the pensioners. Four new members were elected and other general business transacted.

## Law Students' Debating Society.

At a meeting of the Society held at The Law Society's Hall, on Tuesday, 13th December (Chairman, Mr. P. W. Iliff), the subject for debate was "That this House approves of the abolition of Armistice Day celebrations." Mr. R. J. A. Temple opened in the affirmative; Mr. J. F. Ginnett opened in the negative. The following members also spoke: Messrs. C. E. Lloyd, E. M. Woolf, P. H. North-Lewis, M. C. Batten, C. Weinberg, H. J. Baxter and R. Langley Mitchell. The opener having replied, the motion was lost by eight votes. There were sixteen members and one visitor present.

# Rules and Orders.

THE RULES OF THE SUPREME COURT (No. 3), 1932. DATED NOVEMBER 25, 1932.

We the Rule Committee of the Supreme Court hereby make the following Rules :—

1. The following Fees shall be substituted for Fees Nos. 106 and 107 in Appendix N which Fees are hereby revoked :—

| | £ s. d. | £ s. d. |
|---|---|---|
| "106. And for printing, the amount actually and properly paid to the printer not exceeding (per folio) .. .. .. | 2 6 | 2 6 |
| 107. And in addition for every ten copies beyond the first twenty copies (per folio) .. .. | 1½ | 1½ " |

2. These Rules may be cited as the Rules of the Supreme Court (No. 3), 1932, and shall come into operation on the 1st day of January, 1933, and the Rules of the Supreme Court, 1883,(*) shall have effect as amended by these Rules.

Dated the 25th day of November, 1932.

| | |
|---|---|
| *Sankey*, C. | *Swift*, J. |
| *Hewart*, C.J. | *Maugham*, J. |
| *Hanworth*, M.R. | *D. B. Somervell.* |
| *Merrivale*, P. | *A. W. Cockburn.* |
| *P. Ogden Lawrence*, L.J. | *C. H. Morton.* |
| *Roche*, J. | *Roger Gregory.* |

* S.R. & O. Rev. 1904, XII, Supreme Court, E., pp. 54–417 (reprinted as amended to Dec. 31, 1903).

THE NON-CONTENTIOUS PROBATE RULES, 1932. DATED NOVEMBER 28, 1932.

I, the Right Honourable Henry Edward Baron Merrivale, President of the Probate, Divorce and Admiralty Division of the High Court of Justice, with the concurrence of the Right Honourable John Viscount Sankey, Lord High Chancellor of Great Britain, and the Right Honourable Gordon Baron Hewart, Lord Chief Justice of England, by virtue of section 100 of the Supreme Court of Judicature (Consolidation) Act, 1925,(*) and all other powers enabling me in this behalf, hereby order as follows :—

1. In these Rules "the Principal Rules" means the Rules and Orders and Instructions for the Registrars of the Principal Registry of the Court of Probate in respect of Non-Contentious business, dated the 30th day of July 1862, as amended by any subsequent Rules.(†)

2. The additional Rule and Order for the Registrars of the Principal and District Probate Registries numbered 110 and dated the 23rd day of February, 1920,(‡) is hereby revoked.

3. The following Rule shall stand as Rule 110 in the Principal Rules :—

"110. The increases prescribed by Order 65, Rule 10 of the Rules of the Supreme Court, 1883.(§) shall be applied in like manner on Taxation of Costs in Non-Contentious Business in the Principal and in the District Registries of the Court of Probate."

4.—(1) These Rules may be cited as the Non-Contentious Probate Rules, 1932, and shall come into operation on the 1st day of December, 1932 ; and the Principal Rules shall have effect as further amended by these Rules.

(2) The Non-Contentious Probate Rules, 1932, which came into operation on the 2nd day of October, 1932, as Provisional Rules, shall continue in force till the 1st day of December, 1932, on which day the said Rules shall be superseded and replaced by these Rules.

Dated the 28th day of November, 1932.

*Merrivale*, P.

We concur { *Sankey*, C. / *Hewart*, C.J.

* 15-6 G. 5. c. 49.
† S. R. & O. Rev. 1904, XII, Supreme Court, E. pp. 756-794 and S.R. & O. 1921 (No. 649) p. 1287, 1925 (No. 1231) p. 1539 and 1926 (No. 1044) p. 1246.
‡ S.R. & O. 1925 (No. 1267) p. 1538. § *See* S.R. & O. 1932, No. 514.

JURIES IN NEW PROCEDURE CASES.

When an application for a jury was made to Mr. Justice Macnaghten last Wednesday, on a summons in a case in the New Procedure List, counsel relied on a statement which had been published that a jury would be granted if the case was one of oath against oath. His lordship said that that statement went too far. The case in which it was made was a very special one. Generally speaking, anyone who wanted a jury and wanted to stay in the New Procedure List must show some very exceptional circumstances.

# Parliamentary News.

## Progress of Bills.

### House of Lords.

Evidence (Foreign, Dominion and Colonial Documents) Bill.
Read Second Time. [13th December.
Expiring Laws (Continuance) Bill.
Read First Time. [13th December.
Public Works Facilities Scheme (Huddersfield Corporation) Confirmation Bill.
Read Third Time. [8th December.
Visiting Forces (British Commonwealth) Bill.
Read Second Time. [13th December.

### House of Commons.

Coal Mines (Protection of Animals) Bill.
Read First Time. [8th December.
Doncaster Drainage Bill.
Read Second Time. [8th December.
Expiring Laws (Continuance) Bill.
Read Third Time. [8th December.
London Passenger Transport (Re-Committed) Bill.
Reported, with Amendment. [13th December.
Ministry of Health Provisional Order (Buckingham and Oxford) Bill.
Read Second Time. [14th December.
Ministry of Health Provisional Order (Leek) Bill.
Read Second Time. [14th December.
Ministry of Health Provisional Order (Rugby Joint Hospital District) Bill.
Read Second Time. [14th December.
Ministry of Health Provisional Order (Taunton and District Joint Hospital District) Bill.
Read Second Time. [14th December.
Protection of Animals (Amendment) Bill.
Read First Time. [8th December.
Rent and Mortgage Interest Restrictions (Amendment) Bill.
Read Second Time. [13th December.

## Questions to Ministers.

DEATH DUTIES.

Mr. LOVAT-FRASER asked the Chancellor of the Exchequer whether, in view of the rapid urbanisation of the country, he will consider the desirability of granting the same privileges to specified picturesque open spaces as are now granted to pictures, antiques and other valuable heirlooms in the question of death duties ?

Mr. HORE-BELISHA : I would refer my hon. Friend to s. 40 of the Finance Act, 1931, which provides for the exemption from death duties of land given or devised to the National Trust or under certain conditions to the Commissioners of Works or local authorities. My right hon. Friend is not, however, prepared to recommend the extension of the exemption to land which remains in private ownership. [8th December.

COMPANIES ACT (AMENDMENT).

Mr. RHYS DAVIES asked the President of the Board of Trade whether in view of the disclosures in the case of the Scottish Amalgamated Silks Company to the effect that the holders of the 11,000,000 deferred shares stand no chance of having any of their money returned, and in view of the amount of money lost to the shareholders through the operations of this company, he will consider bringing in a Bill to give investors greater protection than they now have ?

Dr. BURGIN : Due account will be taken of this case when the amendment of the Companies Act is under consideration. [15th December.

THE COMMITTEE ON COPPER.

The following announcement has been made by the Board of Trade :—

The Committee which the copper producers and consumers have set up to advise the Government on questions arising from the Ottawa Agreements relating to copper have decided to appoint an independent chairman, and both producers and consumers have invited Sir Leslie Scott, K.C., to act in that capacity. As the work of the Committee will not make any heavy demand on his time, incompatible with his other professional work, he has agreed to accept the post.

# Legal Notes and News.

## Honours and Appointments.

The King has been pleased to approve a recommendation of the Home Secretary that Mr. G. D. ROBERTS be appointed Recorder of Exeter, to succeed Sir PERCIVAL CLARKE, who has been appointed Chairman of the Quarter Sessions for the County of London. Mr. Geoffrey Dorling Roberts, who was called to the Bar by the Inner Temple in May, 1912, is one of the Counsel to the Treasury at the Central Criminal Court.

Mr. WILLIAMS JONES, Solicitor and Deputy Coroner for North Caernarvonshire, has been appointed Deputy Clerk to the Caernarvonshire County Council and Deputy Clerk of the Peace for the County.

Mr. K. B. EDWARDS, legal assistant to the Town Clerk, Wrexham, is recommended for appointment as Deputy Town Clerk, Crewe.

## Professional Announcements.

**(2s. per line.)**

THE SOLICITORS' MORTGAGE SOCIETY, LTD. (formed by Solicitors for Solicitors), invites particulars of FUNDS or SECURITIES. Apply, The Secretary, 20, Buckingham-street, Strand, W.C.2. Telephone No. Temple Bar 1777.

### EVIDENCE OF ENTRIES IN FOREIGN REGISTERS.

The Lord Chancellor has introduced a Bill aiming at making better provision for the admissibility in evidence in the United Kingdom of entries contained in the public registers of other countries, and for proof by means of duly authenticated official certificates of entries in such registers and in consular registers and of other matters.

### INCORPORATED SOCIETY OF AUCTIONEERS.

Mr. Norman L. Ball (Messrs. Dron and Wright), City of London, has been elected President of the Incorporated Society of Auctioneers and Landed Property Agents for 1933, to take office as from the general meeting on 17th February. Captain John E. Mitchell, of Nottingham, has been elected a Vice-President of the Society to fill the vacancy caused by Mr. Ball's election to the presidency.

### "RATING AND INCOME TAX."

Attention is drawn in this week's issue of "Rating and Income Tax" to the fact that it has recently been acquired by the proprietors of this Journal, The Solicitors' Law Stationery Society, Limited.

The paper fulfils a useful purpose in providing authoritative and practical information on the subjects with which it deals. Its particular value to solicitors lies in its reports of all cases in the High Court on Rating and Income Tax, the arguments being the work of barristers, and the judgments being given verbatim.

It is already widely read, and solicitors holding local government posts, and those acting as clerks to the Commissioners of Income Tax, will find it of great assistance in keeping in close touch with current matters on the subjects, and particularly with the decided cases.

# Court Papers.

## Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

| DATE. | EMERGENCY ROTA | APPEAL COURT No. 1. | GROUP I. MR. JUSTICE EVE. Non-Witness | MR. JUSTICE MAUGHAM. Witness. Part II. |
|---|---|---|---|---|
| M'nd'y Dec. 19 | Mr. More | Mr Jones | Mr. Blaker | Mr. Jones |
| Tuesday .. 20 | Hicks Beach | Ritchie | Jones | *Hicks Beach |
| Wednesday 21 | Andrews | Blaker | Hicks Beach | Blaker |
| Thursday . 22 | Jones | More | Blaker | Jones |
| Friday .... 23 | Ritchie | Hicks Beach | Jones | Hicks Beach |

| DATE. | GROUP I. MR. JUSTICE BENNETT. Witness Part I. | MR. JUSTICE CLAUSON. Witness Part II. | GROUP II. MR. JUSTICE LUXMOORE. Witness Part I. | MR. JUSTICE FARWELL. Non-Witness. |
|---|---|---|---|---|
| M'nd'y Dec. 19 | Mr.*Hicks Beach | Mr.*More | Mr.*Ritchie | Mr. Andrews |
| Tuesday .. 20 | *Blaker | Ritchie | *Andrews | More |
| Wednesday 21 | *Jones | *Andrews | *More | Ritchie |
| Thursday . 22 | Hicks Beach | More | Ritchie | Andrew |
| Friday .... 23 | Blaker | Ritchie | Andrews | More |

*The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

The CHRISTMAS VACATION will commence on Saturday, the 24th day of December, 1932, and terminate on Friday, the 6th day of January, 1933, inclusive.

# Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement Thursday, 22nd December, 1932.

| | Middle Price 14 Dec. 1932. | Flat Interest Yield. £ s. d. | †Approximate Yield with redemption £ s. d. |
|---|---|---|---|
| **English Government Securities.** | | | |
| Consols 4% 1957 or after .. .. .. | 108 | 3 14 1 | 3 10 0 |
| Consols 2½% .. .. .. .. .. | 74½xd | 3 7 1 | — |
| War Loan 3½% 1952 or after .. .. | 98½ | 3 11 1 | — |
| Funding 4% Loan 1960-90 .. .. .. | 109 | 3 13 5 | 3 9 7 |
| Victory 4% Loan (Available for Estate Duty at par) Average life 31 years .. | 108 | 3 14 1 | 3 11 4 |
| Conversion 5% Loan 1944-64 .. .. | 115½ | 4 6 7 | 3 5 11 |
| Conversion 4½% Loan 1940-44 .. .. | 109½ | 4 2 2 | 3 1 2 |
| Conversion 3½% Loan 1961 or after .. | 99 | 3 10 8 | — |
| Local Loans 3% Stock 1912 or after .. | 87xd | 3 9 0 | — |
| Bank Stock .. .. .. .. .. | 323 | 3 14 3 | — |
| India 4½% 1950-55 .. .. .. .. | 107 | 4 4 1 | 3 18 6 |
| India 3½% 1931 or after .. .. .. | 87½xd | 4 0 0 | — |
| India 3% 1948 or after .. .. .. | 76xd | 3 18 11 | — |
| Sudan 4½% 1939-73 .. .. .. .. | 108 | 4 3 4 | 3 0 5 |
| Sudan 4% 1974 Redeemable in part after 1950 | 107 | 3 14 9 | 3 9 6 |
| Transvaal Government 3% Guaranteed 1923-53 Average life 13 years .. .. | 100 | 3 0 0 | 3 0 0 |
| **Colonial Securities.** | | | |
| *Canada 3% 1938 .. .. .. .. | 100xd | 3 0 0 | 3 0 0 |
| *Cape of Good Hope 4% 1916-36 .. .. | 102 | 3 18 5 | — |
| Cape of Good Hope 3½% 1929-49 .. | 97xd | 3 12 2 | 3 14 10 |
| ††Ceylon 5% 1960-70 .. .. .. | 117 | 4 5 6 | 3 19 4 |
| *Commonwealth of Australia 5% 1945-75 | 105xd | 4 15 3 | 4 9 9 |
| Gold Coast 4½% 1956 .. .. .. | 106xd | 4 4 11 | 4 1 10 |
| *Jamaica 4½% 1941-71 .. .. .. | 104 | 4 6 6 | 3 18 10 |
| *Natal 4% 1937 .. .. .. .. | 102 | 3 18 5 | 3 10 2 |
| *New South Wales 4½% 1935-45 .. .. | 99xd | 4 10 11 | 4 12 1 |
| *New South Wales 5% 1945-65 .. .. | 103 | 4 17 1 | 4 13 9 |
| *New Zealand 4½% 1945 .. .. .. | 102 | 4 8 3 | 4 5 7 |
| *New Zealand 5% 1946 .. .. .. | 105xd | 4 15 3 | 4 9 10 |
| Nigeria 5% 1950-60 .. .. .. .. | 112 | 4 9 3 | 4 0 2 |
| *Queensland 5% 1940-60 .. .. .. | 103 | 4 17 1 | 4 10 10 |
| *South Africa 5% 1945-75 .. .. .. | 108xd | 4 12 7 | 4 3 8 |
| *South Australia 5% 1945-75 .. .. | 103xd | 4 17 1 | 4 13 9 |
| *Tasmania 5% 1945-75 .. .. .. | 104 | 4 16 2 | 4 11 9 |
| *Victoria 5% 1945-75 .. .. .. | 103xd | 4 17 1 | 4 13 9 |
| *West Australia 5% 1945-75 .. .. | 105 | 4 15 3 | 4 9 8 |
| **Corporation Stocks.** | | | |
| Birmingham 3% 1947 or after .. .. | 83½xd | 3 11 10 | — |
| *Birmingham 5% 1946-56 .. .. .. | 113 | 4 8 6 | 3 15 8 |
| *Cardiff 5% 1945-65 .. .. .. | 110 | 4 10 11 | 4 0 0 |
| Croydon 3% 1940-60 .. .. .. | 93 | 3 4 6 | 3 8 0 |
| *Hastings 5% 1947-67 .. .. .. | 112 | 4 9 3 | 3 17 6 |
| Hull 3½% 1925-55 .. .. .. .. | 97½ | 3 11 10 | 3 13 4 |
| Liverpool 3½% Redeemable by agreement with holders or by purchase .. .. | 96½xd | 3 12 6 | — |
| London County 2½% Consolidated Stock after 1920 at option of Corporation .. | 72 | 3 9 5 | — |
| London County 3% Consolidated Stock after 1920 at option of Corporation .. | 85½ | 3 10 2 | — |
| Manchester 3% 1941 or after .. .. | 84½ | 3 11 0 | — |
| Metropolitan Water Board 3% "A" 1963-2003 .. .. .. .. .. | 88 | 3 8 2 | 3 9 1 |
| Do. do. 3% "B" 1934-2003 .. | 88½ | 3 7 10 | 3 8 8 |
| *Middlesex C.C. 3½% 1927-47 .. .. | 99 | 3 10 8 | 3 11 10 |
| Do. do. 4½% 1950-70 .. .. | 109½ | 4 2 2 | 3 15 3 |
| Nottingham 3% Irredeemable .. .. | 83½ | 3 11 10 | — |
| *Stockton 5% 1946-66 .. .. .. | 111½ | 4 9 8 | 3 18 5 |
| **English Railway Prior Charges.** | | | |
| Gt. Western Rly. 4% Debenture .. .. | 99½ | 4 0 5 | — |
| Gt. Western Rly. 5% Rent Charge .. | 113 | 4 8 6 | — |
| Gt. Western Rly. 5% Preference .. .. | 72½ | 6 18 0 | — |
| L. Mid. & Scot. Rly. 4% Debenture .. | 91½ | 4 7 5 | — |
| L. Mid. & Scot. Rly. 4% Guaranteed .. | 74½ | 5 7 5 | — |
| Southern Rly. 4% Debenture .. .. | 97½ | 4 2 1 | — |
| Southern Rly. 5% Guaranteed .. .. | 101½ | 4 18 6 | — |
| Southern Rly. 5% Preference .. .. | 68½ | 7 6 0 | — |
| ‡L. & N.E. Rly. 4% Debenture .. .. | 81½ | 4 18 2 | — |
| ‡L. & N.E. Rly. 4% 1st Guaranteed .. | 60½ | 6 12 3 | — |

*Not available to Trustees over par. ††Not available to Trustees over 115.

†In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other stocks, as at the latest date.

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